

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

I, the Minister of Aboriginal Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Splatsin First Nation, in the Province of British Columbia, at a meeting held on the 27th day of September 2011.

- **Splatsin Financial Administration By-law**

A handwritten signature in blue ink, appearing to be 'J. Man...'.

Dated at Ottawa, Ontario, this 31st day of October 2011.



SPLATSIN

BYLAW NO. 8

FINANCIAL ADMINISTRATION BYLAW

A bylaw to regulate the management and control of First Nation funds and establish the administrative structure of the First Nation which manages the funds.

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WHEREAS the *Indian Act* provides that Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for the following purposes:

- (a) the appropriation and expenditure of moneys of the First Nation to defray the First Nation expenses;
- (b) the appointment of officials to conduct the business of Council; and
- (c) any matter arising out of or ancillary to the exercise of the powers described in Section 83(1) of the Act;

AND WHEREAS the Council of the First Nation has determined that it is desirable and necessary that a financial administration bylaw be established for the purposes set out in Section 83(1) of the Act;

NOW THEREFORE the Council of the First Nation, at a duly convened meeting, enacts the following bylaw:

PART 1

TITLE

1. This bylaw may be called the “Splatsin Financial Administration Bylaw”.

PART 2

DEFINITIONS

2. In this Bylaw,

“**Act**” means the *Indian Act*, R.S.C. 1985, c. I-5;

“**annual audit**” means an audit by an Auditor of the First Nation’s consolidated financial statements for the preceding fiscal year. according to generally accepted auditing standards;

“**annual budget**” means the revenues and expenditures projected and approved by Council under Section 22 for the next fiscal year and includes any amendments to the annual budget approved under that Section;

“**annual audited financial statements**” means the consolidated financial statements audited by an Auditor as part of conducting the annual audit;

“**Auditor**” means a person or company who is designated as a Chartered accountant or Certified General Accountant and who is a member in good standing with the registered accounting association that regulates his designation;

“**Band Administrator**” means the employee or contractor appointed by resolution as the administrator of the First Nation;

“**capital works**” means major physical assets owned or controlled by the First Nation, including roads, bridges, utilities, water supply and septic systems, ditches and water spillways, buildings, waste control facilities, land, landscaping and fencing;

“**Council**” means the council of the First Nation and includes the Chief of the First Nation;

“**department**” means an administrative division or agency of the First Nation government as established from time to time and includes:

- (a) internal organizational units of the First Nation administration;
- (b) any board, tribunal, commission or committee of the First Nation; and
- (c) any corporate entity controlled by the First Nation, including a partnership;

“**Director of Finance**” means the person appointed under Section 12;

“**employee**” includes, for the purposes of this Bylaw, any contractors with the First Nation who administer, manage or control First Nation funds;

“**First Nation funds**” means all moneys received and managed by Council, or its designate, for the use and benefit of the First Nation, including all revenues, grants, contributions, loans, earnings from business enterprises and, unless otherwise indicated in this Bylaw, does not include:

- (a) money received by the First Nation on behalf of an individual, corporate entity or partnership; and
- (b) any money received and managed by Council for which Council has approved an alternative arrangement under to Section 8 of this Bylaw;

“**First Nation**” means the Splatsin, being a band, as defined under the Indian Act;

“**Fiscal Year End**” means the date specified in Section 16.

“**funding agreement**” means any written contract between the First Nation and another party or parties, pursuant to which money is to be paid to the First Nation;

“**General Account**” means any bank account in the name of the First Nation and created pursuant to Section 38;

“**member of the First Nation**” means any person listed, or entitled to be listed, as a member of the First Nation under the Act;

“**program director**” means the head of any department;

“**resolution**” means a decision of Council at a duly held Council meeting and recorded in writing; and

“**self-generated First Nation funds**” means First Nation funds that are obtained from activities and operations of the First Nation and does not include funds obtained from any third-parties.

PART 3

APPLICATION

3. This bylaw governs the management and control of First Nation funds and the administrative organization of the First Nation to manage and control First Nation funds.

4. This bylaw applies to Council and all departments in receipt of First Nation funds.

PART 4

COUNCIL

Role of Council

5. Council must conduct the business of the First Nation in a manner that ensures sound financial management by, among other things, carrying out the following duties and responsibilities:
 - (a) ensuring that the annual budget of the First Nation does not have expenditures exceeding revenues;
 - (b) planning and budgeting financial and other resources for local services and capital works projects;
 - (c) setting policies and procedures to safeguard the resources of the First Nation and maximize the well-being of the members of the First Nation;
 - (d) supervising and overseeing the roles and responsibilities of the Band Administrator and the Director of Finance;
 - (e) ensuring Council and all employees of the First Nation have full financial accountability at all times to all members of the First Nation;
 - (f) ensuring the First Nation meets all financial obligations with third parties;
 - (g) ensuring all investments in financial instruments are made in accordance with prudent investor standards;
 - (h) overseeing the work of all employees of the First Nation through the Band Administrator, and ensuring that all employees of the First Nation who manage and control First Nation funds are:
 - (i) responsible for maintaining accurate financial records; and
 - (ii) qualified for the position to which they are appointed;
 - (i) permitting access by all members of the First Nation, under the supervision of Council or its designate, to First Nation bylaws, annual budgets, annual audited financial statements and annual audit reports of the First Nation;
 - (j) ensuring that all financial records of the First Nation, including computer files, are kept in the administration office of the First Nation in a secure and safe condition, and are not removed from the office without the authority of Council, such authority to be evidenced by resolution; and
 - (k) ensuring the sale of any assets owned by the First Nation is for no less than fair market value.

Duties

6. Each member of Council must, in exercising his powers and performing his functions under this Bylaw:
 - (a) act honestly and in good faith and in the best interests of the First Nation; and
 - (b) exercise the care, diligence and skill of a reasonably prudent person.

Alternative Arrangements for Funding Agreements

7. Council may, by resolution, approve any funding agreement.
8. Notwithstanding the provisions of this Bylaw, Council may by resolution approve an alternative arrangement other than the provisions of this Bylaw for the management of money received pursuant to the terms of a funding agreement, if the terms of the funding agreement require the alternative arrangement.

PART 5

BAND ADMINISTRATOR

Role of Band Administrator

9. The Band Administrator must act as the senior administrative officer of Council and must assist Council in carrying out its duties. The duties of the Band Administrator include:
 - (a) develop and present a list of candidates to Council for the position of Director of Finance;
 - (b) ensuring the creation and maintenance of adequate records of Council minutes, resolutions, decisions and other proceedings;
 - (c) work with the Director of Finance to ensure financial compliance of the First Nation with all contracts and funding agreements entered into by Council or any department for financial compliance and immediately report any non-compliance to Council;
 - (d) monitor all contracts and funding agreements entered into by Council or any department for financial compliance and immediately report any non-compliance to Council;
 - (e) maintaining security of finances and financial documents by:
 - (i) establishing safe storage in security boxes or safes;
 - (ii) establishing secure storage with security codes and locks on files, cash and valuable documents; and

- (iii) ensuring no more than two people, in addition to himself, have knowledge of the security codes, combinations or possession of keys to locked files; and
- (f) complete any other task assigned by Council.

DIRECTOR OF FINANCE

Role of the Director of Finance

10. The Director of Finance reports directly to Council and must:
- (a) conduct the administration necessary to discharge the financial administration responsibilities of Council, including staff supervision;
 - (b) maintain records of all information required to facilitate the annual audit;
 - (c) compile and prepare information for the annual budget and any amended annual budget;
 - (d) present the annual budget and any amended annual budget to Council for its review and approval by resolution;
 - (e) ensure the completion of an annual audit and presentation of the audit to Council for its review and approval by resolution;
 - (f) administer and maintain adequate and timely financial records and reporting systems that record all financial transactions of the First Nation, including but not limited to copies of all vouchers, financial statements, cancelled cheques and correspondence relating to the financial business of the First Nation and systems, and all necessary purchase order tracking systems;
 - (g) work with the Band Administrator to ensure financial compliance of the First Nation with all contracts and funding agreements entered into by Council or any department for financial compliance and immediately report any non-compliance to Council;
 - (h) report to Council on financial matters, including preparing and presenting to Council the monthly report required under Section 51;
 - (i) provide advice to Council on financial matters;
 - (j) receive, record and deposit, or administer the receipt, recording and deposit of all money received by the First Nation in a timely manner;
 - (k) ensure all accounts payable are paid in accordance with the procedures set out in this Bylaw;

- (l) maintain a detailed inventory of all First Nation assets in order to, among other things, meet insurance requirements;
 - (m) ensuring all cash is deposited in a drop safe located in the administration office of the First Nation at the end of each business day; and
 - (n) oversee all other matters relating to the financial affairs of the First Nation; and
 - (o) complete any other task assigned by Council.
11. The Director of Finance may prescribe any additional requirements for the form and content of the financial records and the accounting systems of the First Nation that he deems necessary.

Appointment of Director of Finance

12. Subject to Section 13, the Band Administrator must develop a list of at least three potential candidates for the position of Director of Finance and Council must, by resolution, appoint a person as Director of Finance from the list.
13. If the Band Administrator is applying for to be the Director of Finance, then Council must develop a list of at least three potential candidates for the position of Director of Finance and Council must, by resolution, appoint a person as Director of Finance from the list.
14. Subject to the provisions of this Bylaw, the engagement and removal of any person as Director of Finance must be consistent with any personnel policies of the First Nation.
15. If the Band Administrator and the Director of Finance are the same person, then such person is responsible for the duties set out in Sections 9 to 11, inclusive of this Bylaw.

PART 6

FISCAL YEAR

16. The financial year-end of the First Nation is March 31.

ANNUAL BUDGET

17. The Director of Finance must prepare estimates of the projected revenues of the First Nation for the purpose of preparing the annual budget.
18. Each program director must prepare the department's annual budget and any amendments thereto for the operation of the department and must submit the budget and any amendments prepared to the Director of Finance.
19. The Director of Finance compile and review an annual budget and any amendments from budgets provided by each program director and submit the annual budget with each respective program director to Council for consideration and approval by resolution.

20. Council is solely responsible for the approval of the annual budget for each fiscal year.
21. Council may, by resolution, direct amendments to the annual budget submitted by the Director of Finance. Any amendments proposed by Council must include the prior consultation with the respective program director and the director of Finance.
22. The annual budget becomes effective upon approval by Council by resolution.
23. The annual budget must be made available during regular office hours and, if available, any website of the First Nation, for inspection by any member of the First Nation.
24. Any member of the First Nation may request a signed and approved copy of the annual budget from the Director of Finance and, if that member pays a nominal fee to cover the administrative cost for providing the copy, then the Director of Finance must provide a copy to that member.

ANNUAL AUDIT

25. Council must appoint annually, by resolution, an Auditor to conduct the annual audit and prepare an annual audit report.
26. The Auditor reports to Council.
27. The Auditor must be entitled to access any information or records that are held by or in the control of the First Nation and are necessary to complete the annual audit, including but not limited to
 - (a) all books, records, accounts and vouchers of the First Nation;
 - (b) any information held by or under the control of a program director or any agent of the First Nation that is necessary for the completion of the audit;
 - (c) all Council resolutions and First Nation bylaws; and
 - (d) any agreements, contracts, or related documents entered into or in control of the First Nation, Council or any employee of the First Nation.
28. The annual audit must be conducted in accordance with generally accepted auditing standards, must include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the First Nation and must be completed in no more than 90 days after the Fiscal Year End.
29. The Director of Finance and each Program Director as necessary, must provide any assistance to the Auditor required for the completion of the annual audit.
30. After the review of the annual audited financial statements and annual audit reports by the Director of Finance, the Auditor must present the statements and reports to Council.

31. Council must consider and vote on the annual audited financial statements and annual audit reports at a duly held meeting of Council and, if approved, must be signed by the Chief and one other person as designated by resolution.
32. Council must report on the annual audited financial statements and annual audit reports at a general assembly of the First Nation at least once in every calendar year.

Public Access

33. Once Council signs the annual audited financial statements and annual audit reports, the Director of Finance must make available copies of the statements and reports in such public places as determined by Council by resolution.
34. The Director of Finance must retain the signed, annual audited financial statements and annual audit reports, and any member of the First Nation may:
 - (a) inspect the statements and reports during regular office hours and on any website of the First Nation; and
 - (b) directly or through an agent, make a copy of the statements, the reports or any part thereof, if that member pays a nominal fee to the First Nation to cover the administrative cost for providing the copies.

PART 7

FINANCIAL MANAGEMENT: DEPOSITS

General Requirements

35. The Director of Finance must ensure that all operating and savings accounts in the name of the First Nation are established at a chartered bank, trust company or credit union.
36. The Director of Finance must ensure the safekeeping of all First Nation funds received and maintain a numbered receipt book for the funds.
37. Upon receipt of any First Nation funds, the Director of Finance must:
 - (a) stamp all cheques immediately upon receipt with a stamp that designates the monies for deposit into a General Account;
 - (b) cause such funds to be deposited into a General Account within five days of receipt; and
 - (c) promptly issue a receipt in the correct amount to the payor.

Bank Accounts

38. The Director of Finance must establish bank accounts held in the name of the First Nation, into which all First Nation funds must be deposited.

39. The Director of Finance reallocate funds from one General Account to another General Account, for investment purposes or program and services delivery.
40. Funds in any General Account must be administered by the Director of Finance.

FINANCIAL MANAGEMENT: RESERVE FUND

Reserve Fund

41. Subject to the provisions of any funding arrangement Council must, by resolution, authorize the establishment of a capital reserve fund called the "Reserve Fund" for the following purposes:
 - (a) constructing or upgrading capital works of the First Nation; and
 - (b) supplementing operational costs of programs of the First Nation that are related to language, culture, youth, elders, or title and rights, when projected revenues for the program are anticipated to be lower than projected expenditures.
 - (c) The operational costs of facilities related to these programs are specifically excluded.

Conditions of Use

42. The following conditions apply to the use of any Reserve Fund:
 - (a) the Reserve Fund must be established in a separate bank account with a bank, trust company or credit union, on terms that are at a better interest rate than available for general savings accounts;
 - (b) Council must regularly inform the members of the First Nation about the use of the Reserve Fund;
 - (c) the members of the First Nation must give prior approval for any withdrawal from the Reserve Fund over \$1,000,000.00, such approval to be obtained in the same manner as set out in Section 59(b) of this Bylaw;
 - (d) Council must ensure that contributions are made to the Reserve Fund on an annual basis as part of normal monthly expenditure from First Nation funds and each contribution must be:
 - (i) no less than 2% of the total projected annual revenues of the First Nation funds that are not prohibited from being used for the Reserve Fund under a funding agreement; and
 - (ii) set out in the annual budget or any amended annual budget projections;
 - (e) Council can only withdraw from the Reserve Fund between April 1 and April 30 of each fiscal year and only if:

- (i) a balance of \$125,000.00 remains in the Reserve Fund account after the withdrawal, unless Council receives approval of the members of the First Nation in the same manner as set out in Section 59(b) of this Bylaw; and
 - (ii) Council is satisfied that all other sources of funding have been considered and, where possible, obtained; and
- (f) Council must ensure that contributions to the Reserve Fund are budgeted as part of the annual budget or any amended annual budget, and are shown in month-end financial statements as required under Section 51 of this Bylaw.

FINANCIAL MANAGEMENT: EXPENDITURES

Conditions of Expenditures

43. Subject to the provisions for loans under Section 57, the following conditions must be met before any expenditure from a General Account:
- (a) funds for the expenditure must be allocated and approved as part of the annual budget;
 - (b) the expenditure must be consistent with prudent cash management practices; and
 - (c) any per capita distribution from the General Account must be approved in advance by a vote of the members of the First Nation, such vote to be held in the following manner:
 - (i) at least 35 days prior to a vote held under this Section, Council must ensure that a ballot and letter of instruction regarding voting procedure by mail-in ballot is mailed, or delivered to all members of the First Nation who live off the reserve;
 - (ii) at least 35 days prior to a vote held under this Section, Council must ensure that notice is:
 - (A) mailed or delivered to all households of members of the First Nation, on all reserves of the First Nation;
 - (B) posted at all administration offices of the First Nation and, if available, any website of the First Nation; and
 - (C) published in an appropriate Section for legal notices in:
 - (I) one daily national newspaper;
 - (II) one daily provincial newspaper in British Columbia; and
 - (III) any other publication that Council considers appropriate;

- (iii) notice mailed or delivered under this Section must set out the details of the distribution, including the source and total amount of the distribution funds; the time, date and place of a meeting of the members of the First Nation to authorize the per capita distribution; and the voting approval threshold;
 - (iv) at the meeting, Council must inform the members of the First Nation of the details of the distribution, including the source and total amount of the distribution funds; and
 - (v) the per capita distribution must be approved by 50% plus one of the members of the First Nation who are, at the time of the vote, 18 years of age or over; and
- (d) any expenditure over \$ 10,000 from self-generated First Nation funds must have the prior approval of the members of the First Nation authorizing the expenditure, such vote to be held by Council in the following manner:
- (i) Council must ensure that notice is:
 - (A) mailed or delivered to all households of members of the First Nation, on all reserves of the First Nation;
 - (B) mailed or delivered to all members of the First Nation who live off the reserve; and
 - (C) posted at all administration offices of the First Nation, at least 21 days prior to a vote held under this Section;
 - (ii) notice mailed or delivered under this Section must set out the details of the amount of the expenditure, the purpose of the expenditure and the source of funds for the expenditure, and the time, date and place of a meeting of the members of the First Nation to authorize the expenditure;
 - (iii) at the meeting, Council must inform the members of the First Nation of the details of the expenditure, including the amount of the expenditure, its purpose and the source of funds for the expenditure; and
 - (iv) the expenditure must be approved by 50% plus one of such members present at the meeting.

Authorized Signatories

44. Any two members of Council may sign any purchase order, work order, cheque, agreement or other obligation to make an expenditure from First Nation funds, provided that those Councillors must immediately provide a copy of the signed document to the

Band Administrator and that there has been consultation with the respective Program Director and that he/she has provided a recommendation in respect of the expenditure.

45. Council may also, by resolution, designate the employees described below to sign purchase orders and work orders for up to the following limits:

	Employee Title	Limit
(a)	Program director	\$5,000.00;
(b)	Band Administrator	\$5,000.00;

Program Director & Administrator Insurance Requirements

46. Council must ensure that any program director that is designated under Section 46 is bonded to a minimum of \$5,000,000.00, and any Band Administrator that is designated under that Section is bonded to a minimum of \$5,000,000.00 .
47. Council must ensure that the First Nation obtains a reasonably prudent amount of loss and liability insurance to protect the First Nation and its assets.

Expenditure Procedures

48. An individual designated under Section 46 may sign a purchase order or work order up to the amount specified in Section 46 provided the expenditure has been approved by Council as part of the annual budget.
49. The Director of Finance must report to the Council no later than the last day of the month with the following information for the previous quarter:
- (a) a financial statement for the previous month that includes a balance sheet and a statement of operations showing revenues and expenditures of each department; and
 - (b) a cumulative summary of year-to-date revenues and expenditures; and
 - (c) bank balances for all General Accounts and Reserve Fund accounts monthly.
50. Council must ensure that all expenditures for the First Nation meet the conditions set out in Section 44.

Petty Cash

51. Council may, by resolution, establish and maintain a petty cash fund to a maximum of \$500.00, provided that:
- (a) the resolution designates an employee of the First Nation who is not an authorized signatory of the First Nation to be responsible for the petty cash fund;

- (b) the designated employee must:
 - (i) complete a voucher for each disbursement made;
 - (ii) ensure that the total of disbursement vouchers plus the cash on hand equals the total amount of the fund;
 - (iii) ensure reimbursement of the fund, in accordance with the vouchers; and
 - (iv) charge each expense to the appropriate department account.

Travel Expenses

- 52. All employees of the First Nation must submit travel expenses over \$100.00 to the Band Administrator for advance approval and the Band Administrator may approve such expenses, provided that the expenses are:
 - (a) within the annual budget; and
 - (b) consistent with other relevant policies adopted by Council from time to time.
- 53. On an annual basis, the Director of Finance must recommend allowable rates of travel expenses and conditions of reimbursement to Council for its consideration and approval, by resolution. If there have been no recommended changes, then the previous existing rates and conditions shall apply until amended by resolution.

FINANCIAL MANAGEMENT: LOANS, BORROWING AND DEBTS

Loans

- 54. Council must not make any personal loans to any individuals, except under the provision of Section 57.
- 55. Council may make a personal loan to an individual through loan program of the First Nation, such as an economic development program, if:
 - (a) Council has approved the program by resolution;
 - (b) written procedures and criteria to qualify for a loan under the program have been approved by resolution; and
 - (c) the individual has made all payments owed to the First Nation on time for the previous seven years.

Powers of Council to Borrow and Grant Security

56. Council may, by resolution, from time to time on behalf of the First Nation:
- (a) borrow money in such manner and amounts, on such security, from such sources and upon such terms and conditions as they think fit;
 - (b) obtain credit for operational purposes of the First Nation;
 - (c) issue bonds, debentures, and other debt obligations either outright or as security for any liability or obligation of the First Nation or any other person; and
 - (d) mortgage, charge, whether by way of specific or floating charge, or give other security on the undertaking, or on the whole or any part of the property and assets, of the First Nation (both present and future),

provided that the conditions in Section 59 have been met.

Conditions of Borrowing and Granting Security

57. Council must ensure that the following conditions have been met prior to passing an authorizing resolution under Section 58:
- (a) if the amount to be borrowed or secured is less than \$1,000,000.00 and if Council approves of the terms of the loan or security, then Council must pass a resolution authorizing the loan;
 - (b) if the amount to be borrowed or secured is more than \$1,000,000.00, then Council must have the prior approval of the members of the First Nation authorizing the loan or security, such vote to be held in the following manner:
 - (i) Council must ensure that notice is:
 - (A) mailed or delivered to all households of members of the First Nation, on all reserves of the First Nation;
 - (B) mailed or delivered to all members of the First Nation who live off the reserve; and
 - (C) posted at all administration offices of the First Nation,at least 21 days prior to a vote held under this Section;
 - (ii) notice mailed or delivered under this Section must set out the details of the amount of the loan or security, the purpose of the loan or security, and the repayment obligations in respect of the loan or security, and the time, date and place of a meeting of the members of the First Nation to authorize the loan or security;

- (iii) at the meeting, Council must inform the members of the First Nation of the details of the loan or security, including the amount of the loan or security, its purpose, any cost of interest and how the loan or security will be repaid; and
- (iv) the loan must be approved by 50% plus one of 33% of all members of the First Nation who are 18 years of age or over.

Collection of Debts

- 58. The Director of Finance must seek, or cause to be sought, agreement for a payment plan from each person or entity that owes money to the First Nation.
- 59. The Director of Finance must ensure that the repayment plan for any debt to the First Nation under \$1,000.00 is for a term no longer than 12 months, unless otherwise approved by resolution.
- 60. The Director of Finance must ensure that the repayment plan for any debt to the First Nation over \$1,000.00 is for a term no longer than 24 months, unless otherwise approved by resolution.
- 61. Council, or its designate, must charge interest on any debts owing to the First Nation. Council must, by resolution, determine the amount of interest to be charged, provided that in no circumstances may it be less than prime.
- 62. Council may, by resolution, set off or designate another person to set off any amount owing to the First Nation against any money owed to the debtor from the First Nation.
- 63. The Director of Finance may use:
 - (a) a debt collection agency, if reported to Council at least 30 days in advance; or
 - (b) the court, if approved in advance by resolution,to collect debts that are more than 90 days in arrears and for which the debtor has failed to agree to a reasonable repayment plan. Prior to initiating any collection action under this provision, the Director of Finance must make reasonable efforts to enter into a repayment plan with the debtor in accordance with the provisions of this Part.
- 64. The Band Administrator, or his designate, must render a statement of account to all debtors of the First Nation on a monthly basis.

FINANCIAL REPORTING: INVOICING

- 65. No person may make a payment on behalf of the First Nation for the performance 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 resolution; or
 - (b) by a person delegated to authorize such payment under this Bylaw.
66. The Band Administrator or his designate must ensure that an invoice is rendered, in a timely manner, for all work, goods or services that are provided for payment by the First Nation.

AWARDING OF CONTRACTS

Contracts for Goods & Services

67. Council may, by resolution, approve any contract on behalf of the First Nation, provided the following conditions must be met:
- (a) any expenditure required of the First Nation in the contract must meet the requirements under Section 44;
 - (b) the program director responsible for managing the contract must recommend the contract to Council; and
 - (c) the Director of Finance must state to Council that the funds are available to pay the expenditure.
68. Council may, by resolution designate the employees described below, to approve any contract for up to the following limits, provided the requirements under Subsections 69(a) and (c) are met in advance:

	<u>Employee Title</u>	<u>Limit</u>
(a)	program director	\$5,000.00; and
(b)	Band Administrator	\$5,000.00.

Tendering Requirements

69. The Band Administrator may approve a capital works purchase up to \$5,000.00 without going to tender if the purchase was approved in the annual budget.
70. The Director of Finance must put all capital works purchases over \$ 5,000.00 to public tender and seek bids from at least three independent contractors for such purchases.
71. Council may, be resolution, approve the Director of Finance to consider less than three bids if less than three bids are received by the tender closing date.
72. No telephone bids may be accepted by a program director. A program director may accept bids by electronic mail, provided such bids are followed by a hard copy.

73. Invitations to tender must 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) the amount of any security deposit.
74. The tendering period is not to be less than five working days, unless in an emergency situation.
75. All tenders are to be returned sealed and addressed to the First Nation, clearly marked "Tendered for [*description of project*]" and the Director of Finance must record, or cause to be recorded, the time and date of receipt on the unopened envelope of tender.
76. All tenders received must be opened in public in the presence of the Band Administrator and any program director responsible for the tendering process.
77. The Band Administrator must record, or cause to be recorded, the name of the Bidder and the project; and the date and amount of the bid.
78. The Director of Finance must accept the lowest tender received unless Council has passed a resolution that:
 - (a) approves the other tender; and
 - (b) records the reasons why it is in the best interests of the First Nation to accept a higher tender.
79. Upon acceptance of a tender for the performance of work, goods, or services, the Director of Finance must ensure that
 - (a) a written contract is signed by the party accepting the contract and the First Nation; and
 - (b) a copy of the written contract is kept as a record of the First Nation.
80. No disbursements or payment on any contract must be made without supporting documentation as required by any policies of the Director of Finance.
81. The Director of Finance retain a 15% hold-back of final payment or such greater amount as may be determined by Council, by resolution, from all contractors until Council, by resolution, approves all work as complete and satisfactory.
82. The Director of Finance may establish any further policies and procedures for the tender process as it considers necessary.

PART 8

CONFLICTS OF INTEREST

Definitions

83. The following definitions apply to this Part:
- (a) "Personal Gain" means any financial benefit of any value; and
 - (b) "Related Member" means 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, and all companies or other legal entities that are owned by any such person.

General Conflict of Interest Rule

84. A person who is a member of Council or the Director of Finance, or is otherwise employed by the First Nation or one of its departments, must not use that office or employment for his own Personal Gain, the Personal Gain of his Related Member or to the detriment of the interests of the First Nation.

Disclosure by Members of Council and the Director of Finance

85. If a decision by Council or the Director of Finance may result in a member of Council or the Director of Finance, or his Related Member, receiving any Personal Gain, such member must make full and complete disclosure to Council or the Director of Finance, as the case may be, of the details of the potential Personal Gain.
86. It shall be the duty of each member of Council and the Director of Finance to disclose to Council or the Director of Finance, as the case may be, any real or perceived Personal Gain of any other member or any other member's Related Member.
87. A member of Council or the Director of Finance must disclose his potential Personal Gain and the potential Personal Gain of his Related Member in one of the following ways, whichever occurs first:
- (a) at the meeting at which the Council or the Director of Finance, as the case may be, first considers the decision that may result in the potential Personal Gain;
 - (b) at the first meeting after the member becomes aware of the potential for the Personal Gain; or
 - (c) in writing to the Council or the Director of Finance, as the case may be, as soon as the member becomes aware of the potential for the Personal Gain.

88. A member of Council or the Director of Finance must, on an annual basis, disclose in writing to Council all legal entities that he owns or has any interest in.
89. Immediately after the disclosure set out in Subsections 89(a) or (b), the member in potential conflict must leave the meeting room and must not participate in any discussions or vote concerning the matter and the minutes of the meeting must record the time that the member leaves and returns to the meeting room.
90. Despite Section 91, the person who leaves the room may still be counted for the purpose of calculating any quorum requirement.

Disclosure by Employees

91. If an employee of the First Nation or his Related Member may receive a Personal Gain from a contract granted by the First Nation, he must disclose his interest to the Director of Finance in writing and thereafter refrain from taking part in any discussion or decision about the awarding of the contract.

Liability to Account

92. Council may hold any person, including a person elected to Council, who fails to follow the proper procedure for disclosure and abstaining from involvement under this Part is responsible to reimburse the First Nation for any Personal Gain that he or his Related Member received.

Suspension or Dismissal

93. If any person other than a member of Council or the Band Administrator violates the conflict of interest provision, then subject to any personnel policy of the First Nation, the Band Administrator must:
 - (a) suspend the person; or
 - (b) dismiss the person from all privileges and benefits of office or employment.
94. Subject to any personnel policy of the First Nation, any person who is suspended or dismissed under Section 93 has a right to appeal the dismissal or suspension to Council.
95. If the Band Administrator violates the conflict of interest provision, then subject to any personnel policy of the First Nation that applies to the Band Administrator, Council must:
 - (a) suspend the Band Administrator; or
 - (b) dismiss the Band Administrator from all privileges and benefits of office or employment.
96. Subject to any personnel policy of the First Nation that applies to the Band Administrator, Council must, in a timely manner, give a Band Administrator who is

suspended or dismissed under Section 97 an opportunity to speak to Council and explain any relevant circumstances.

PART 9

NON-COMPLIANCE

- 97. A decision made in contravention of this Bylaw is voidable by vote of a majority of Council.

PART 10

AMENDMENTS AND REPEAL


- 98. Amendment or repeal of this Bylaw must be made by a bylaw enacted by Council.

PART 11

GENERAL

- 99. In this Bylaw, any words in the singular include the plural and words in the plural includes the singular and the masculine includes the feminine and neuter where the context requires.
- 100. If any provision of this Bylaw held to be invalid, void, voidable or unenforceable for any reason, then the particular provision will be deemed severed from the remainder of this Bylaw and all remaining provisions of this Bylaw must remain in full force and effect.

This bylaw is hereby enacted by Council at a duly convened meeting held on the 27th day of September 2011.


 CHIEF WAYNE M. CHRISTIAN


 COUNCILLOR JEAN M. BROWN


 COUNCILLOR RON CHRISTIAN

absent
 COUNCILLOR SHANNON JONES


 COUNCILLOR GEORGE WILLIAM


 COUNCILLOR LAWRENCE WILLIAMS