

**MORICETOWN INDIAN BAND**  
**FINANCIAL ADMINISTRATION LAW, 2010**

**TABLE OF CONTENTS**

|  |    |
|--|----|
| PART ONE – INTERPRETATION AND APPLICATION .....        | 6  |
| Citation and Definitions .....                         | 6  |
| Interpretation .....                                   | 10 |
| Posting of public notice .....                         | 10 |
| Calculation of time .....                              | 10 |
| Conflict of laws .....                                 | 11 |
| Scope and application.....                             | 11 |
| PART TWO – ADMINISTRATION.....                         | 11 |
| <i>Division One – Council</i> .....                    | 11 |
| Responsibilities of Council.....                       | 11 |
| Council policies, procedures and directions .....      | 11 |
| Reporting of remuneration, expenses and contracts..... | 12 |
| <i>Division Two – Finance Committee</i> .....          | 12 |
| Finance Committee established .....                    | 12 |
| Chair and vice-chair .....                             | 13 |
| Finance Committee procedures .....                     | 13 |
| Financial planning responsibilities .....              | 14 |
| Audit responsibilities.....                            | 15 |
| Council assigned responsibilities .....                | 15 |
| <i>Division Three – Officers and Employees</i> .....   | 15 |
| Band manager .....                                     | 15 |
| Senior financial officer .....                         | 16 |
| Tax administrator.....                                 | 17 |
| Human resources officer.....                           | 18 |
| Organizational structure .....                         | 18 |
| <i>Division Four – Conduct Expectations</i> .....      | 19 |
| Conduct of Councillors.....                            | 19 |
| Conduct of officers, employees, contractors, etc ..... | 20 |

|  |    |
|--|----|
| PART THREE – FINANCIAL MANAGEMENT .....                        | 21 |
| <i>Division One – Financial Plans and Annual Budgets</i> ..... | 21 |
| Fiscal year .....  | 21 |
| Multi-year financial plan .....                                | 21 |
| Content of annual budget .....                                 | 21 |
| Budget and planning process schedule .....                     | 21 |
| Additional requirements for budget deficits .....              | 22 |
| Amendments to annual budgets .....                             | 22 |
| Local revenue account budget requirements .....                | 22 |
| Policy for First Nation information or involvement .....       | 22 |
| <i>Division Two - Financial Institution Accounts</i> .....     | 23 |
| Financial institution accounts .....                           | 23 |
| Accounts management .....                                      | 23 |
| <i>Division Three – Expenditures</i> .....                     | 24 |
| Prohibited expenditures .....                                  | 24 |
| Prohibited agreements .....                                    | 24 |
| No expenditure without appropriation .....                     | 24 |
| Extraordinary Expenditures .....                               | 24 |
| Emergency expenditures .....                                   | 24 |
| Appropriations .....   | 24 |
| Payments after fiscal year end .....                           | 25 |
| Policies and procedures .....                                  | 25 |
| <i>Division Four – Borrowing</i> .....                         | 25 |
| Limitations on borrowing .....                                 | 25 |
| Borrowing for ordinary operations .....                        | 25 |
| Financial agreements .....                                     | 25 |
| Borrowing member requirements .....                            | 26 |
| Borrowing for repayment of debts .....                         | 26 |
| Use of borrowed money .....                                    | 26 |
| Execution of security documents .....                          | 26 |
| Operational controls .....                                     | 26 |
| <i>Division Five - Risk Management</i> .....                   | 27 |
| Limitation on business activity .....                          | 27 |
| Guarantees and indemnities .....                               | 27 |

|  |    |
|--|----|
| Authority to invest .....  | 28 |
| Approved investments .....   | 28 |
| Loans to Members .....   | 29 |
| Administration of investments .....                                      | 29 |
| Risk assessment and management .....                                     | 29 |
| Insurance.....   | 29 |
| <i>Division Six – Financial Reporting</i> .....                          | 29 |
| GAAP .....   | 29 |
| Monthly financial information .....                                      | 30 |
| Quarterly financial statements.....                                      | 30 |
| Annual financial statements .....  | 30 |
| Appointment of auditor .....   | 31 |
| Audit requirements .....   | 31 |
| Auditor’s authority .....  | 32 |
| Review of audited annual financial statements .....                      | 33 |
| Access to annual financial statements .....                              | 33 |
| Annual report.....   | 33 |
| <i>Division Seven – Information and Information and Technology</i> ..... | 34 |
| Ownership of records .....   | 34 |
| Operations manual.....   | 34 |
| Record keeping and maintenance.....                                      | 34 |
| Local revenue account records .....                                      | 35 |
| Confidentiality of information.....                                      | 35 |
| Information technology .....   | 35 |
| <b>PART FOUR – CAPITAL PROJECTS</b> .....                                | 35 |
| Council duties.....  | 35 |
| Reports on capital projects .....  | 35 |
| Life-cycle management program.....                                       | 36 |
| Review by Finance Committee .....  | 37 |
| Capital projects – contracts and tenders .....                           | 38 |
| Capital project consultants .....  | 38 |
| <b>PART FIVE – BORROWING MEMBER REQUIREMENTS</b> .....                   | 38 |
| Compliance with standards.....   | 38 |

|  |           |
|--|-----------|
| PART SIX - MISCELLANEOUS .....                                     | 38        |
| Reports of breaches and financial irregularities, etc. ....        | 38        |
| Inquiry into report.....   | 39        |
| Protection of parties.....   | 39        |
| Liability for improper use of money .....                          | 40        |
| Indemnification against proceedings.....                           | 40        |
| Periodic review of law .....                                       | 40        |
| Provision of law to FNFA .....                                     | 41        |
| Coming into force.....   | 41        |
| SCHEDULE A.....  | 42        |
| <b>MORICETOWN INDIAN BAND CONFLICT OF INTEREST REGULATION.....</b> | <b>42</b> |
| <b>PART ONE - INTERPRETATION .....</b>                             | <b>42</b> |
| Interpretation .....   | 42        |
| Definition of conflict of interest.....                            | 42        |
| <b>PART TWO – COUNCILLORS AND COMMITTEE MEMBERS.....</b>           | <b>43</b> |
| Application .....  | 43        |
| General obligations.....   | 43        |
| Disclosure of interests .....                                      | 43        |
| Gifts and benefits.....  | 44        |
| Confidential information .....                                     | 44        |
| Procedure for addressing conflict of interest.....                 | 45        |
| Procedure for undisclosed conflict of interest.....                | 45        |
| <b>PART THREE – OFFICERS AND EMPLOYEES.....</b>                    | <b>46</b> |
| Application .....  | 46        |
| General obligations.....   | 46        |
| Disclosure of conflict of interest .....                           | 46        |
| Gifts or benefits .....  | 46        |
| Outside employment and business interests.....                     | 47        |
| Confidential information .....                                     | 47        |
| First Nation property and services.....                            | 47        |
| <b>PART FOUR - HONORARIA.....</b>                                  | <b>47</b> |
| Honoraria.....   | 47        |

**PART FIVE – CONTRACTORS AND AGENTS**.....48

    Application ..... 48

    Contractor acting as officer or employee ..... 48

    General obligations..... 48

    Confidential information ..... 49

    First Nation property and services..... 49

MORICETOWN INDIAN BAND FINANCIAL ADMINISTRATION LAW, 2010  
PART ONE – INTERPRETATION AND APPLICATION

**Citation and Definitions**

1. This law may be cited as the *Moricetown Indian Band Financial Administration Law, 2010*.
2. (1) Unless the context indicates the contrary, in this law

**"Act"** means the *First Nations Fiscal and Statistical Management Act*;

**"agent"** means a person, who may or may not be an employee, who has been appointed by resolution to represent the First Nation in dealing with third parties;

**"annual financial statements"** mean the annual financial statements of the First Nation prepared by the senior financial officer, in accordance with section 62;

**"annual report"** means the annual report of the First Nation, prepared by the Council, in accordance with section 68;

**"appropriation"** means an allocation of money under a budget to the purposes for which it may be used;

**"auditor"** means the person appointed by the Council as auditor of the First Nation in accordance with section 63;

**"band manager"** means the person responsible for the day-to-day management or administration of the First Nation's financial administration system, appointed under section 17;

**"budget"** means the annual budget of the First Nation that has been approved by the Council in accordance with section 27;

**"COIR"** means the *Moricetown Indian Band Conflict of Interest Regulation* enacted under this law and attached to this law as Schedule A;

**"capital project"** means the construction, rehabilitation or replacement of the First Nation's tangible capital assets and any other major capital projects in which the First Nation or its related bodies are investors;

**"Chair"** means the chair of the Finance Committee, appointed by the Council in accordance with section 12;

**"Council"** means the Council of the First Nation;

**"Councillor"** means a member of the Council of the First Nation;

**"dependent child"** means, in relation to an individual, a child who

- (a) has not reached the age of 18 years, or
- (b) has reached the age of 18 years, but is primarily dependent for financial support on

- i. a Councillor or the spouse of a Councillor, or
- ii. the band manager or the spouse of the band manager;

**"FMB"** means the First Nations Financial Management Board established under the Act;

**"FMB standards"** mean the standards established from time to time by the FMB under the Act;

**"FNFA"** means the First Nations Finance Authority established under the Act;

**"FNTC"** means the First Nations Tax Commission established under the Act;

**"FNTC standards"** mean the standards established from time to time by the FNTC under the Act;

**"family member"** means, in relation to a Councillor or to the band manager, that person's spouse, dependent children, or dependent children of the spouse;

**"Finance Committee"** means the Finance Committee established under section 11;

**"financial administration"** means the management, supervision, control and direction of all matters relating to the financial affairs of the First Nation;

**"financial institution"** means the FNFA, a bank, or credit union;

**"financial competency"** means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by the First Nation's financial statements;

**"financial records"** mean all records respecting the financial administration of the First Nation, including the minutes of meetings of the Council and the Finance Committee;

**"First Nation"** means the Moricetown Indian Band, being a band named in the schedule to the Act;

**"First Nation law"** means any law or bylaw of the First Nation made by the Council;

**"First Nation official"** means a current or former Councillor, officer or employee of the First Nation;

**"First Nation's financial assets"** means all money and other financial assets of the First Nation;

**"First Nation's lands"** mean all reserves of the First Nation within the meaning of the Indian Act;

**"First Nation's records"** mean all records of the First Nation respecting its governance, management, operations and financial administration;

**"First Nation's tangible capital assets"** mean all non-financial assets of the First Nation 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 one 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 historical cost of at least \$10 000;

**“fiscal year”** means the period beginning on April 1<sup>st</sup> of one year and ending on March 31<sup>st</sup> in the next year, as set out in section 24;

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

**“human resources officer”** means the person appointed by the Council as the human resources officer in accordance with section 20;

**“indemnify”** means to 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);

**“indemnity”** means

(a) a promise to make a person whole from specified losses or costs they may suffer, or

(b) payment of compensation to make a person whole from a loss they have already suffered;

**“life-cycle management program”** means the program of inspection, review and planning for management of the First Nation’s tangible capital assets as described in section 77;

**“local revenue account”** means the local revenue account referred to in section 13 of the Act;

**“local revenue law”** means a local revenue law made by the First Nation under the Act;

**“local revenues”** mean money raised under a local revenue law;

**“multi-year financial plan”** means the plan referred to in section 25;

**“officer”** means the band manager, senior financial officer, tax administrator and any other employee of the First Nation designated by the Council as an officer;

**“Personnel Committee”** means a committee that reports to the Council and that



- a) is formed as required,
- b) consists of at least three people, including
  - i. two Councillors, and
  - ii. the HRO, the Band Manager, or a manager, and
- c) is involved in interviewing and short-listing job applicants;

**“Personnel Policy”** means the Moricetown Indian Band Personnel Policy adopted by the Council, which governs the relationship between the First Nation and its employees;

**“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 the First Nation,
- (b) any corporation in which the First Nation has a material interest or that is controlled by the First Nation,
- (c) any partnership in which the First Nation or another related body of the First Nation is a partner, or
- (d) a trust of the First Nation;

**“replacement”** includes substitution, in whole or in part, with another of the First Nation’s tangible capital assets;

**“senior financial officer”** means the person responsible for the day-to-day management of the First Nation’s financial administration system, appointed under section 18;

**“special purpose report”** means a report described in subsection 62(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 year in a marriage-like relationship;

**“standards”** mean the standards established from time to time under the Act; and

**“tax administrator”** means the tax administrator appointed under the First Nation’s 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 Act.
- (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) Unless otherwise specified, 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) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;
  - (c) the expression “must” is to be construed as imperative, and the expression “may” is to be construed as permissive;
  - (d) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”; and
  - (e) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.
- (2) This law must be considered as always speaking and where a matter or thing is expressed in the present tense, it must 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.
- (3) 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 must 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 band office of the First Nation and in any other area designated by the Council.
- (2) Unless expressly provided otherwise, if a public notice of a meeting must be posted under this law the notice must be posted at least 15 days before the date of the meeting.

### **Calculation of time**

5. In this law, where
- (a) 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;
  - (b) 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;
  - (c) a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;

- (d) a time is expressed to begin after or to be from a specified day, the time does not include that day; and
- (e) anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

**Conflict of laws**

- 6. (1) If there is a conflict between this law and another First Nation law, other than a local revenue law, this law prevails.
- (2) If there is a conflict between this law and the Act, the Act prevails.
- (3) If there is a conflict between this law and a local revenue law, the local revenue law prevails.

**Scope and application**

- 7. This law applies to the financial administration of the First Nation.

PART TWO – ADMINISTRATION

*Division One – Council*

**Responsibilities of Council**

- 8. (1) The Council is responsible for all matters relating to the financial administration of the First Nation 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 Act, this law and any other applicable First Nation law, the Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this law except the
  - (a) approval of Council policies, procedures or directions;
  - (b) appointment of members and Chair of the Finance Committee;
  - (c) approval of budgets and financial statements of the First Nation; and
  - (d) approval of borrowing of the First Nation.

**Council policies, procedures and directions**

- 9. (1) Subject to subsection (2), the Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of the First Nation.
- (2) The Council must establish policies or procedures or give directions respecting the acquisition, management and safeguarding of First Nation assets.
- (3) The Council must not establish any policies or procedures or give any directions relating to the financial administration of the First Nation that are in conflict with this law, the Act or GAAP.

- (4) The Council must ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.
- (5) The Council must 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.
- (6) The Council may, by resolution, make and amend regulations respecting
  - (a) conflicts of interest; or
  - (b) any other matter related to the financial administration of the First Nation as the Council, on the recommendation of the Finance Committee, deems necessary.

**Reporting of remuneration, expenses and contracts**

- 10.(1) Annually the senior financial officer must prepare, and include with the annual financial statements, a special purpose report separately listing
  - (a) each Councillor;
  - (b) every family member of each Councillor;
  - (c) the band manager; and
  - (d) every family member of the band manager,
 and setting out, for each person listed above, the following information
  - (e) the total amount of remuneration, expenses and benefits received from the First Nation; and
  - (f) any contracts with the First Nation for the supply of goods or services.
- (2) Subsection (1) does not require the reporting of remuneration, expenses or benefits received
  - (a) in common by all members of the First Nation;
  - (b) under a program or service universally accessible to all members of the First Nation on published terms and conditions; or
  - (c) from a trust arrangement according to the terms of the trust.

***Division Two – Finance Committee***

**Finance Committee established**

11. (1) The Finance Committee of the First Nation is established.
- (2) The Council must appoint not less than three members of the Finance Committee, a majority of whom must have financial competency.
- (3) At least 25% of the Finance Committee members must be Councillors.

- (4) Subject to subsection (5), the Council must appoint Finance Committee members to hold office for staggered terms, as follows
- (a) Councillors must be appointed to the Finance Committee as soon as practicable following Council elections and must sit on the Finance Committee until the next election;
  - (b) non-Councillors must be appointed for three year terms, beginning on September 1 and ending on August 31 three years thereafter; and
  - (c) notwithstanding paragraphs (a) and (b), for their first terms only, Council must appoint Board members as soon as practicable after this law comes into effect, who will serve until
    - (i) the next Council election, in the case of Councillors, and
    - (ii) August 31 of the second full fiscal year after their appointment, in the case of non-Councillors.
- (5) The Council may terminate the appointment of a member of the Finance Committee for cause, including where a member
- (a) is convicted under the *Criminal Code* of an offence involving fraud or theft;
  - (b) has unexcused absences from three (3) consecutive Finance Committee meetings;
  - (c) declares bankruptcy; or
  - (d) fails to perform any of their duties under this law in good faith and in accordance with the terms of this law.

**Chair and vice-chair**

12. (1) The Council must appoint a Councillor as the Chair of the Finance Committee.
- (2) The Finance Committee members may appoint one of their members who is a Councillor as Vice-chair of the Finance Committee.

**Finance Committee procedures**

13. (1) The quorum of the Finance Committee is 50% of the total number of Finance Committee members, including at least one Councillor.
- (2) Unless a Finance Committee member is not permitted to participate in a decision because of a conflict of interest, in accordance with the COIR, every Finance Committee member has one vote in all Finance Committee decisions.
- (3) In the event of a tie vote in the Finance Committee, the Chair of the Finance Committee may cast a second tie-breaking vote.
- (4) Subject to subsection (5), the band manager and the senior financial officer must be notified of all Finance Committee meetings and, subject to reasonable exceptions, must attend those meetings.

- (5) The band manager or the senior financial officer may be excluded from all or any part of a Finance Committee meeting by a recorded vote if
  - (a) the subject matter relates to a confidential personnel or performance issue respecting the band manager or the senior financial officer; or
  - (b) it is a meeting with the auditor.
- (6) The Finance Committee must meet
  - (a) at least once every month and as necessary to conduct the business of the Finance Committee; and
  - (b) as soon as practical after it receives the audited annual financial statements and report from the auditor.
- (7) The Finance Committee must
  - (a) record its meetings; and
  - (b) provide meeting minutes and report to the Council on the substance of each Finance Committee meeting as soon as practicable after each meeting.
- (8) Subject to this law and any directions given by the Council, the Finance Committee may make rules for the conduct of its meetings.
- (9) The Finance Committee may, with the approval of the Council, retain a consultant to assist in the performance of any of its responsibilities.

#### **Financial planning responsibilities**

14. (1) The Finance Committee must carry out the following activities in respect of the financial administration of the First Nation
  - (a) annually develop, and recommend to the Council for approval, short, medium and long term
    - (i) strategic plans, projections and priorities,
    - (ii) operational plans, projections and priorities,
    - (iii) business plans, projections and priorities, and
    - (iv) financial plans, projections and priorities;
  - (b) review draft annual budgets and recommend them to the Council for approval;
  - (c) on an ongoing basis, monitor the financial performance of the First Nation against the budget and report any significant variations to the Council; and
  - (d) review the quarterly financial statements and recommend them to the Council for approval.

- (2) The Finance Committee may make a report or recommendations to the Council on any matter respecting the financial administration of the First Nation that is not otherwise specified to be its responsibility under this law.

#### **Audit responsibilities**

15. The Finance Committee must carry out the following audit activities in respect of the financial administration of the First Nation
  - (a) make recommendations to the Council on the selection, engagement and performance of an auditor;
  - (b) receive assurances on the independence of a proposed or appointed auditor;
  - (c) review, and make recommendation to the Council on, the planning, conduct and results of audit activities;
  - (d) review, and make 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 review and make recommendations to the Council, on policies, procedures and directions on reimbursable expenses and perquisites of the Councillors, officers and employees of the First Nation;
  - (f) monitor 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) conduct a review of this law under section 87 and, where appropriate, recommend amendments to the Council; and
  - (h) periodically review, and make recommendations to the Council on, the terms of reference of the Finance Committee.

#### **Council assigned responsibilities**

16. The Council may assign to the Finance Committee responsibility for any other matter respecting the financial administration of the First Nation that the Council considers would benefit from the Finance Committee's involvement.

### ***Division Three – Officers and Employees***

#### **Band manager**

17. (1) The Council must appoint a person as band manager of the First Nation and may set the terms and conditions of that appointment.
- (2) Reporting to the Council, the band manager is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of the First Nation including the duties to

- (a) oversee, supervise and direct the activities of all officers and employees of the First Nation;
  - (b) oversee and administer the contracts of the First Nation;
  - (c) identify, assess, monitor and report on financial reporting risks and fraud risks;
  - (d) monitor and report on the effectiveness of mitigating controls for the risks referred to in paragraph (c) taking into consideration the cost of implementing those controls;
  - (e) assume the duties and responsibilities of the human resources officer, in accordance with subsection 20(2), if one has not been appointed by the Council; and
  - (f) perform any other duties of the band manager under this law; and
  - (g) carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the band manager's duties specified in this law.
- (3) The band manager may assign the performance of any of the band manager's duties or functions
- (a) to an officer or employee of the First Nation; and
  - (b) with the approval of the Council, to a contractor or agent of the First Nation.
- (4) Any assignment of duties or functions under subsection (3) does not relieve the band manager of the responsibility to ensure that these duties or functions are carried out properly.

**Senior financial officer**

18. (1) The Council must appoint a person as senior financial officer of the First Nation and may set the terms and conditions of that appointment.
- (2) Reporting to the band manager, the senior financial officer is responsible for the day-to-day management of the systems of the financial administration of the First Nation including the duties to
- (a) ensure the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
  - (b) administer and maintain the accounts of the First Nation including the local revenue account;
  - (c) prepare, in accordance with section 26, the draft annual budgets and any draft amendments to the component of the annual budget respecting the First Nation's local revenue account;
  - (d) prepare the monthly financial information required in section 60, the quarterly financial statements required in section 61 and the draft annual financial statements required in section 62;
  - (e) prepare the financial components of reports to the Council and of any short, medium and long term plans, projections and priorities referred to in subsection 14(1);



- (f) actively monitor compliance with any agreements and funding arrangements entered into by the First Nation;
  - (g) identify, assess, monitor and report on financial reporting risks and fraud risks;
  - (h) administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;
  - (i) administer and supervise the maintenance of the records of all receipts and expenditures of the First Nation to facilitate the annual audit;
  - (j) actively monitor compliance with the Act, this law, any other applicable First Nation law, applicable standards and any policies, procedures and directions of the Council respecting the financial administration of the First Nation, other than those matters that are the responsibility of the tax administrator under this law, another First Nation law or the Act;
  - (k) prepare or provide any documentation and financial information required by the Council, the Finance Committee to discharge its responsibilities;
  - (l) evaluate the financial administration systems of the First Nation and recommend improvements;
  - (m) develop and recommend procedures for the safeguarding of assets and to ensure approved procedures are followed;
  - (n) develop and recommend procedures for identifying and mitigating financial reporting and fraud risks and to ensure approved procedures are followed;
  - (o) perform any other duties of the senior financial officer under this law; and
  - (p) carry out any other activities specified by the band manager that are not inconsistent with the senior financial officer's duties under this law.
- (3) With the approval of the band manager, the senior financial officer may assign the performance of any of the duties or functions of the senior financial officer to any officer, employee, contractor or agent of the First Nation but this assignment does not relieve the senior financial officer of the responsibility to ensure that these duties or functions are carried out properly.

**Tax administrator**

19. (1) The tax administrator reports to the band manager in respect of the performance of any of the tax administrator's duties or functions under this law.
- (2) With the approval of the band manager, 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 the First Nation but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.
- (3) The tax administrator is responsible for actively monitoring compliance with the First Nation's legal obligations, and with any policies, procedures and directions of the Council respecting the

First Nation's local revenue system, other than those matters that are the responsibility of the senior financial officer under the Act, the FAL, or another law of the First Nation.

### **Human resources officer**

- 20.** (1) The Council may appoint a person as human resources officer of the First Nation and must set the terms and conditions of any such appointment.
- (2) Reporting to the band manager, the human resources officer is responsible for the overall management, organization and implementation of all of the First Nation's human resources, in accordance with the Personnel Policy, including the duties to
- (a) together with the Personnel Committee,
- (i) develop and recommend to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of the First Nation,
- (ii) determine and recommend to the Council for approval, the powers, duties and functions of all employees of the First Nation,
- (iii) make decisions regarding the hiring and firing of the employees of the First Nation, including the terms and conditions of their employment;
- (b) prepare, recommend to the Council and maintain and revise as necessary the organization chart referred to in section 21;
- (c) perform employee evaluations in accordance with the Personnel Policy;
- (d) perform any other duties of the human resources officer under this law; and
- (e) carry out any other activities specified by the band manager that are not contrary to the Act or inconsistent with the human resource officer's duties specified in this law.
- (3) The human resources officer may, with the approval of the band manager, assign the performance of any of the human resources officer's duties or functions to
- (a) an officer, employee or committee of the First Nation; and
- (b) a contractor or agent of the First Nation,

provided that the person reports directly to human resources officer or, in the absence of the human resources officer, to the band manager.

(4) Any assignment of duties or functions under subsection (3) does not relieve the human resources officer of the responsibility to ensure that these duties or functions are carried out properly.

### **Organizational structure**

- 21.(1)** Together with the human resources officer, the Council must establish and maintain a current organization chart for the governance, management and administrative systems of the First Nation.

- (2) The organization chart under subsection (1) must include the following information
- (a) all governance, management and administrative systems of the First Nation;
  - (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, Finance Committee and all other committees of the Council and the First Nation,
    - (ii) the band manager, the senior financial officer, the tax administrator and other officers of the First Nation, 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).
- (3) On request, the band manager must provide a copy of the organization chart under subsection (1) to a Councillor, a member of a committee referred to in subparagraph (2)(d)(i), an officer, employee or contractor or agent of the First Nation and a member of the First Nation.
- (4) In the course of discharging their responsibilities under this law, the human resources officer, working with the Personnel Committee, must recommend to the Council for approval and implementation, human resource policies and procedures that facilitate effective internal financial administration controls.
- (5) The Council must take all reasonable steps to ensure that the First Nation hires or retains qualified and competent personnel to carry out the financial administration activities of the First Nation.

#### ***Division Four – Conduct Expectations***

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

- 22.(1) When exercising a power, duty or responsibility relating to the financial administration of the First Nation, a Councillor must
- (a) comply with this law, the Act, any other applicable First Nation law and any applicable standards;
  - (b) act honestly, in good faith and in the best interests of the First Nation;

- (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 COIR, 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, the Council must, at a Council meeting that is open to the public, give a verbal warning or reprimand to the Councillor.

**Conduct of officers, employees, contractors, etc**

- 23.(1) This section applies to
- (a) an officer, employee, contractor and agent of the First Nation;
  - (b) a person acting under the delegated authority of the Council or the First Nation; or
  - (c) a member of a committee of the Council or the First Nation who is not a Councillor.
- (2) When a person is exercising a power, duty or responsibility relating to the financial administration of the First Nation, that person must
- (a) comply with this law, the Act, any other applicable First Nation 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 COIR including required disclosure of potential conflicts of interest.
- (3) The Council must incorporate the relevant provision of this section into the terms of
- (a) employment or appointment of every officer or employee of the First Nation;
  - (b) every contract of a contractor of the First Nation;
  - (c) appointment of every member of a committee who is not a Councillor; and
  - (d) appointment of every agent of the First Nation.
- (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; and
  - (d) the appointment of an agent may be revoked.

## PART THREE – FINANCIAL MANAGEMENT

### *Division One – Financial Plans and Annual Budgets*

#### **Fiscal year**

24. The fiscal year of the First Nation is April 1 to March 31 of the following year.

#### **Multi-year financial plan**

25. No later than March 31 of each year, the Council must approve a multi-year financial plan that

- (a) has a planning period of five years comprised of the current fiscal year and the four succeeding fiscal years;
- (b) is based on the projections of revenues, expenditures and transfers between accounts; and
- (c) in respect of projected revenues, sets out separate amounts for income from local revenues.

#### **Content of annual budget**

26. The annual budget must encompass all the operations for which the First Nation is responsible and must identify

- (a) each anticipated source of revenue and estimate the amount of revenue from each of these sources;
- (b) each anticipated category of expenditure and estimate the amount of expenditure for each category including those for payments of principal and interest on debt, payments required for capital projects as defined in Part Four, payments required to address any deficits and payments for all other purposes; and
- (c) any anticipated annual and accumulated surplus or annual and accumulated deficit and the application of year end surplus.

#### **Budget and planning process schedule**

27. (1) On or before January 31 of each year, the senior financial officer must prepare and submit to the Finance Committee for review a draft annual budget and a draft multi-year financial plan for the next fiscal year.

(2) On or before February 28 of each year, the Finance Committee must review the draft

(a) annual budget and recommend an annual budget to the Council for approval; and

(b) multi-year financial plan and recommend a multi-year financial plan to the Council.

(3) On or before March 31 of each year, the Council must review and approve the annual budget for the First Nation for the next fiscal year.

- (4) On or before June 15 of each year, the senior financial officer must prepare and submit to the Finance Committee for review a draft amendment of the component of the annual budget respecting the First Nation's local revenue account.
- (5) On or before June 30 of each year, the Finance Committee must review the draft amendment of the component of the annual budget respecting the First Nation's local revenue account and recommend an amendment to the annual budget to the Council for approval.
- (6) No later than July 15 of each year, the Council must approve the amendment of the component of the annual budget respecting the First Nation's local revenue account.

#### **Additional requirements for budget deficits**

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

#### **Amendments to annual budgets**

29. (1) The annual budget of the First Nation must not be changed without the approval of the Council.
- (2) Subject to subsection 27(6) and sections 37, and 38, unless there is a substantial change in the forecasted revenues or expenses of the First Nation or in the expenditure priorities of the Council, the Council must not approve a change to the annual budget of the First Nation.

#### **Local revenue account budget requirements**

30. Despite any other provisions of this law, any part of a budget relating to the local revenue account must be prepared, approved and amended in accordance with applicable provisions of the Act and of the FNTC standards.

#### **Policy for First Nation information or involvement**

31. (1) Between January 25 and February 10 of each year, the members of the First Nation may
  - (a) attend the main administration office to review
    - (i) the annual budget for the next fiscal year, and
    - (ii) the multi-year financial plan for the next fiscal year; and
  - (b) provide written comments on these documents to the Finance Committee.
- (2) As soon as practicable, the Council must provide notice to the members of the First Nation of
  - (a) amendments to the budget, including budget deficits and extraordinary expenditures;

- (b) capital projects;
  - (c) borrowing for new capital projects described in subsection 78(2); and
  - (d) proposed amendments to this law,
- by
- (e) posting the notice in the reception area of the band office; and
  - (f) publishing the notice in the First Nation's newsletter, and
    - (i) mailing the newsletter to on-reserve members, and
    - (ii) making the newsletter available to off-reserve members by email or on the First Nation's website.

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

### *Division Two - Financial Institution Accounts*

#### **Financial institution accounts**

32. (1) No account may be opened for the receipt and deposit of money of the First Nation unless the account is
- (a) in the name of the First Nation;
  - (b) opened in a financial institution; and
  - (c) authorized by the band manager.
- (2) The First Nation must establish the following accounts in a financial institution
- (a) a general account for money from any sources other than those described in paragraphs (b) and (c);
  - (b) a local revenue account for money from local revenues; and
  - (c) a tangible capital asset reserve account for money set aside for purposes set out at section 75.
- (3) The First Nation may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage the First Nation's financial assets.

#### **Accounts management**

33. (1) The senior financial officer must exercise due diligence to ensure the safekeeping of all money received by the First Nation.
- (2) The senior financial officer must

- (a) deposit all money received by the First Nation as soon as practicable into the appropriate accounts described in section 32; and
- (b) not authorize payment of money from an account described in section 32 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this law.

### ***Division Three – Expenditures***

#### **Prohibited expenditures**

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

#### **Prohibited agreements**

35. The First Nation must not enter into an agreement or undertaking that requires the First Nation to expend money that is not authorized by or that contravenes this law.

#### **No expenditure without appropriation**

36. Subject to sections 37 and 38, money must not be paid out of any account unless the expenditure is authorized under an appropriation.

#### **Extraordinary Expenditures**

37. Notwithstanding section 36, a quorum of the Council may authorize an expenditure of up to 5% of the annual budget for a reasonable purpose that was not and could not have been anticipated in the budget if the expenditure is not expressly prohibited by or under this law or another law of the First Nation.

#### **Emergency expenditures**

38. Notwithstanding section 36, a quorum of the Council may authorize an expenditure for an emergency purpose that was not anticipated in the budget if the expenditure is not expressly prohibited by or under this law or another law of the First Nation.

#### **Appropriations**

- 39. (1) An amount that is appropriated in a budget must not be expended for any purpose other than that described in the appropriation.
- (2) The total amount expended by the First Nation in relation to an appropriation must not exceed the amount specified in the budget for the First Nation for that appropriation.
- (3) Every person who is responsible for managing an appropriation must establish and maintain a current record of commitments chargeable to that appropriation.



**Payments after fiscal year end**

40. (1) Money appropriated in a budget for a fiscal year must 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 appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess must be
  - (a) charged against a suitable appropriation for the following fiscal year; and
  - (b) reported in the financial statements for the fiscal year in which the liability was incurred.

**Policies and procedures**

41. The Council must make policies or procedures respecting effective cash management.
42. The Council must make policies or procedures that establish internal controls respecting the procurement of goods and services.

***Division Four – Borrowing***

**Limitations on borrowing**

43. (1) Except as specifically authorized in this law or in a local revenue law, the First Nation must not borrow money or grant security.
- (2) Subject to this law, if a First Nation is authorized in this law to borrow money or grant security, the Council may authorize the senior financial officer to borrow money or grant security in the name of the First Nation
  - (a) as specifically approved by the Council; or
  - (b) in accordance with the policies, procedures or directions made by the Council.

**Borrowing for ordinary operations**

44. (1) The First Nation may incur trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the budget for the fiscal year if the debt will be repaid from money appropriated under an appropriation for the fiscal year or is in respect of an expenditure that may be made without the authority of an appropriation under this law.
- (2) The First Nation 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) The First Nation may enter into a general security agreement or a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of the First Nation.

**Financial agreements**

45. (1) The First Nation may enter agreements in the name of the First Nation for the purpose of

- (a) efficient management of the First Nation's financial assets, agreements with financial institutions and related services agreements; or
  - (b) reducing risks or maximizing benefits in relation to the borrowing, lending or investing of the First Nation'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 senior financial officer may enter into any agreements referred to in subsection (1) on behalf of the First Nation.

**Borrowing member requirements**

46. If the First Nation becomes a borrowing member, then
- (a) it may only secure long-term financing secured by property tax revenues from the FNFA as permitted under its local revenue law and the Act; and
  - (b) any money borrowed under paragraph (a) may only be used for the purposes permitted under the Act.

**Borrowing for repayment of debts**

47. Subject to this law and a local revenue law, the first Nation may not borrow money to repay or refinance a debt of the First Nation, unless doing so results in a cost savings, or more favourable terms, for the First Nation.

**Use of borrowed money**

48. (1) Subject to this section and any local revenue law, money borrowed by the First Nation for a specific purpose must not be used for any other purpose.
- (2) All or some of the money borrowed for a specific purpose by the First Nation and not required to be used immediately for that purpose may be temporarily invested under subsection 54(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 must be applied to repay the debt from the borrowing.

**Execution of security documents**

49. (1) Subject to subsection (2), a security granted by the First Nation must be signed by a Councillor designated by the Council and by the band manager.
- (2) A security granted by the First Nation in respect of local revenues must be signed by a Councillor designated by the Council and by the tax administrator.

**Operational controls**

50. The Council must 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 the First Nation's operations.

## ***Division Five - Risk Management***

### **Limitation on business activity**

51. (1) Subject to subsections (2) and (3), the First Nation must 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) The First Nation may carry on a business that
- (a) is ancillary or incidental to the provision of programs or services or other functions of First Nation governance; or
  - (b) derives income from the granting of a lease or license of or is in respect of
    - (i) an interest in, or natural resources on or under, the First Nation's lands or lands owned in fee simple by or in trust for the First Nation, or
    - (ii) any other property of the First Nation.
- (3) The First Nation may carry on business activities for the primary purpose of profit if the Council determines that the business activities do not
- (a) result in a material liability for the First Nation; or
  - (b) otherwise expose the First Nation'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**

52. (1) The First Nation must not give any guarantees.
- (2) The First Nation must not give an indemnity unless it is
- (a) authorized under section 86;
  - (b) necessary and incidental to and included in another agreement to which the First Nation is a party; or
  - (c) in relation to a security granted by the First Nation that is authorized under this law or another First Nation law.
- (3) Subject to a resolution described in section 86, the Council must make policies and procedures respecting indemnities that

- (a) specify circumstances under which an indemnity may be given without the Council's approval;
- (b) designate the persons who may give an indemnity on behalf of the first nation and specifying the maximum amount of any indemnity which may be given by them;
- (c) specify any terms or conditions under which an indemnity may be given; and
- (d) specify the records to be maintained of all indemnities given by the First Nation.

**Authority to invest**

53. (1) Except as specifically authorized in this law or another First Nation law, the First Nation must not invest the First Nation's financial assets.
- (2) If a First Nation is authorized in this law to invest the First Nation's financial assets, the Council may authorize the band manager to invest the First Nation's financial assets
- (a) as specifically approved by the Council; or
  - (b) in accordance with the policies, procedures or directions made by the Council.

**Approved investments**

- 54.(1) Money in an account described in section 32 that is not immediately required for expenditures may be invested by the First Nation in one or more of the following
- (a) securities issued or guaranteed by Canada, a province or the United States of America;
  - (b) fixed deposits, notes, certificates and other short term paper of, or guaranteed by a financial institution including swaps in United States of America currency;
  - (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 recognized security-rating institutions;
  - (e) any class of investments permitted under an Act of a province relating to trustees; or
  - (f) any other investments or class of investments prescribed by a regulation under the Act.
- (2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested by the First Nation as permitted under the terms of the trust or under the laws of the jurisdiction in which the majority of the First Nation's lands are located.
- (3) If the First Nation has established an investment account under section 32, the First Nation 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 the First Nation is a shareholder;

- (b) trust in which the First Nation is a beneficiary; or
  - (c) limited partnership in which the First Nation is a partner.
- (4) Despite any other provision in this section, government transfer funds and local revenue funds may only be invested in investments specified in subsection 82(3) of the Act and in investments in securities issued by FNFA.

#### **Loans to Members**

55. The First Nation must not make a loan to a member of the First Nation or to an entity in which a member of the First Nation has an interest.

#### **Administration of investments**

56. If the First Nation is authorized to make an investment under this law, the senior financial officer may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment.

#### **Risk assessment and management**

57. (1) Annually, and more often if necessary, the band manager and the senior financial officer must identify and assess any significant risks to the First Nation's
- (a) financial assets;
  - (b) tangible capital assets; and
  - (c) operations.
- (2) Annually, and more often if necessary, the band manager must report to the Finance 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**

58. (1) On the recommendation of the Finance Committee, the Council must procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 57 and any other risks associated with any assets, property or resources under the care or control of the First Nation.
- (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 Six – Financial Reporting***

#### **GAAP**

59. All accounting practices of the First Nation must comply with GAAP.

### **Monthly financial information**

- 60.** No more than 15 days following the end of each month, the senior financial officer must
- (a) prepare financial information respecting the financial affairs of the First Nation, in the form and with the content approved by the Council on the recommendation of the Finance Committee; and
  - (b) provide the information in paragraph (a) to the Council and the Finance Committee.

### **Quarterly financial statements**

- 61.** (1) No more than 30 days following the end of each quarter, the senior financial officer must
- (a) prepare financial statements for the First Nation for that quarter in the form and with the content approved by the Council on the recommendation of the Finance Committee; and
  - (b) provide the information in paragraph (a) to the Council and the Finance Committee.
- (2) The quarterly financial statements in subsection (1) must be
- (a) reviewed by the Finance Committee; and
  - (b) reviewed and approved by the Council.

### **Annual financial statements**

- 62.** (1) At the end of each fiscal year the senior financial officer must prepare the annual financial statements of the First Nation 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 must be prepared in a form approved by the Council on the recommendation of the Finance Committee.
- (3) The annual financial statements must include the financial information
- (a) of the First Nation and its related bodies for the fiscal year; and
  - (b) for the local revenue account that is required to meet the FMB standards respecting audit of the local revenue account.
- (4) The annual financial statements must 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 10;
  - (c) a report setting out all debts or obligations forgiven by the First Nation; and
  - (d) any other report required under the Act or an agreement.

- (5) The senior financial officer must provide draft annual financial statements to the Finance Committee for review within 45 days following the end of the fiscal year for which they were prepared.
- (6) The Finance Committee must present draft annual financial statements to the Council for review within 60 days following the end of the fiscal year for which they were prepared.

#### **Appointment of auditor**

63. (1) The First Nation must appoint an auditor for each fiscal year to hold office until the later of the
  - (a) end of the Council meeting when the audited annual financial statements for that fiscal year are being considered; or
  - (b) date the auditor's successor is appointed.
- (2) The terms and conditions of the appointment of the auditor must be set out in an engagement letter approved by the Finance Committee and must include the auditor's obligation to confirm that the annual financial statements and the audit of them comply with this law, the Act, and FMB standards.
- (3) To be eligible for appointment as the auditor of the First Nation, an auditor must be
  - (a) independent of the First Nation, its related bodies, Councillors and officers and members; and
  - (b) a public accounting firm or public accountant
    - (i) in good standing with 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 or territory in which the majority of the reserve lands of the First Nation are located.
- (4) If the auditor ceases to be independent, the auditor must as soon as practicable after becoming aware of the circumstances
  - (a) advise the First Nation in writing of the circumstances; and
  - (b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

#### **Audit requirements**

64. (1) The auditor must audit the annual financial statements of the First Nation.
- (2) The auditor must conduct the audit of the annual financial statements in accordance with generally accepted auditing standards established by the Canadian Institute of Chartered Accountants.

- (3) The auditor must 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 must report on that account separately from other accounts.
- (4) When conducting the audit, the auditor must provide an
  - (a) audit opinion of the annual financial statements; and
  - (b) audit opinion or review comments on the special purpose reports referred to in subsection 62(4).

#### **Auditor's authority**

65. (1) To conduct an audit of the annual financial statements of the First Nation, the auditor must be given access to
  - (a) all records of the First Nation for examination or inspection and given copies of these records on request; and
  - (b) any Councillor, officer, employee, contractor or agent of the First Nation to ask any questions or request any information.
- (2) On request of the auditor, every person referred to in paragraph (1)(b) must
  - (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 the First Nation as necessary for the performance of the auditor's duties.
- (3) The auditor must be given notice of every
  - (a) meeting of the Finance Committee;
  - (b) Council meeting where matters relating to the annual audit, including the approval of the annual financial statements, will be considered; and
  - (c) meeting of the members of the First Nation where the financial administration of the First Nation will be considered.
- (4) Subject to subsection (6), the auditor may attend any meeting for which he or she must be given notice under this section and must be given the opportunity to be heard at those meetings on any subject that concerns the auditor as auditor of the First Nation.
- (5) The auditor may call a meeting of the Finance Committee to discuss any subject that concerns the auditor of the First Nation.
- (6) The auditor may be excluded from all or any part of a meeting of the Finance 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**

66. (1) The audited annual financial statements must be provided to the Finance Committee for its review and consideration not more than 105 days after the fiscal year end for which the statements were prepared.
- (2) The Council must review and approve the audited annual financial statements not more than 120 days after the fiscal year end for which the statements were prepared.

### **Access to annual financial statements**

67. (1) Before the annual financial statements may be published or distributed, they must
  - (a) be approved by the Council;
  - (b) be signed by
    - (i) the chief of the First Nation;
    - (ii) the Chair of the Finance Committee,
    - (iii) the band manager, and
    - (iv) the senior financial officer; and
  - (c) include the auditor's audit report of the annual financial statements and the auditor's audit opinion or review comments of the special purpose reports referred to in subsection 62(4).
- (2) The audited annual financial statements and special purpose reports must be available for inspection by members of the First Nation at the band office during normal business hours.
- (3) The audit report relating to the local revenue account must be available at the band office during normal business hours for inspection by
  - (a) members;
  - (b) any person with an interest in, or the right to occupy, possess or use First Nation land;
  - (c) the FNTC, the FMB, and the FNFA; and
  - (d) the Minister.

### **Annual report**

68. (1) Not later than 120 days after the end of each fiscal year, the Council must prepare an annual report on the operations and financial performance of the First Nation for the previous fiscal year.
- (2) The annual report referred to in subsection (1) must include
  - (a) a description of the services and operations of the First Nation;

- (b) a progress report on any established financial objectives and performance measures of the First Nation; and
  - (c) the audited annual financial statements of the First Nation for the previous fiscal year including special purpose reports.
- (3) The annual report referred to in subsection (1) must be
- (a) made available to the members of the First Nation at the band office; and
  - (b) provided to the FMB and the FNFA.

### ***Division Seven – Information and Information Technology***

#### **Ownership of records**

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

#### **Operations manual**

70. (1) The band manager must prepare and maintain a current operations manual respecting every element of the First Nation's administrative systems, including any financial administration systems referred to in this law.
- (2) The operations manual under subsection (1) must be made available to Councillors, members of the Finance Committee and all other Council committees and officers and employees of the First Nation, subject to reasonable exceptions.
- (3) If any part of the operations manual under subsection (1) is relevant to the services being provided by a contractor or agent of the First Nation, that part of the operations manual must be made available to the contractor or agent.

#### **Record keeping and maintenance**

71. (1) The band manager must ensure that the First Nation prepares, maintains, stores and keeps secure all the First Nation's records that are required under this law or any other applicable law.
- (2) No First Nation's record may be destroyed or disposed of except as permitted and in accordance with the policies, procedures or directions of the Council.
- (3) All financial records must be stored for at least seven years after they were created.
- (4) The Council must establish policies and procedures or give directions respecting access of any persons to First Nation's records.

### **Local revenue account records**

72. The tax administrator must prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of the First Nation, including all records referred to in section 5 of the *Local Revenue Management Implementation Regulations*.

### **Confidentiality of information**

73. (1) No person may be given access to First Nation's records containing confidential information except as permitted in and in accordance with the policies, procedures and directions of the Council.

(2) All persons who have access to First Nation's records must 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**

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

## **PART FOUR – CAPITAL PROJECTS**

### **Council duties**

75. (1) The Council must take reasonable steps to ensure that
- (a) the First Nation'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 the First Nation'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 the First Nation's lands are located.
- (2) The Council must establish a tangible capital asset reserve fund or the purpose of funding expenditures for capital projects carried out under this Part.

### **Reports on capital projects**

76. At least quarterly, the band manager must report to the Finance Committee on the
- (a) year to date borrowings, loans and payments in respect of each capital project;
  - (b) 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 79 for every capital project.

**Life-cycle management program**

77. (1) The band manager must establish and keep current a register of all the First Nation's tangible capital assets that identifies each of these assets and includes the following information
- (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 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 November 30 of each year, the band manager must arrange for the inspection and review of the state of each of the First Nation's tangible capital assets to establish or update information respecting
- (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 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 December 31 of each year, the senior financial officer must prepare
- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of the First Nation's tangible capital assets for the next fiscal year;
  - (b) short- and long-term forecasts of the estimated cost for rehabilitation or replacement of the First Nation's tangible capital assets;
  - (c) the proposed budget for rehabilitation of the First Nation'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 the First Nation'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 Finance Committee**

78. (1) On or before January 31 of each year, the Finance Committee must review the information, schedules and budget prepared under section 77 for the purposes of
- (a) identifying any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;
  - (b) knowing 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) determining 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 31 of each year, the Finance Committee must review any plans for new construction of First Nation'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**

79. (1) The Council must establish policies or procedures or give directions respecting the management of capital projects including
- (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 First Nation capital projects must be managed in accordance with the policies, procedures or directions referred to in subsection (1).

**Capital project consultants**

80. The band manager may retain the services of a professional engineer or other consultant to assist the band manager, Finance Committee and Council to carry out their obligations under this Part.

**PART FIVE – BORROWING MEMBER REQUIREMENTS**

**Compliance with standards**

81. When the First Nation becomes a borrowing member as defined in the Act,
- (a) it must comply with all applicable FMB standards; and
  - (b) if the Council becomes aware that the First Nation is not complying with a FMB standard referred to in paragraph (a), the Council must as soon as practicable take any required actions to bring the First Nation into compliance with the FMB standards.

**PART SIX - MISCELLANEOUS**

**Reports of breaches and financial irregularities, etc.**

82. (1) Subject to subsections (2) and (3), if any person has reason to believe that
- (a) an expenditure, liability or other transaction of the First Nation 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 the First Nation;

(c) a provision of this law has been contravened; or

(d) a person has failed to comply with the COIR,

the person may disclose the circumstances to the Chair of the Finance Committee.

- (2) If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor must report them to the Chair of the Finance Committee or the band manager if the actions relate to the Chair.
- (3) If an officer, employee, contractor or agent of the First Nation becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case may be, must report them to the band manager or the Chair of the Finance Committee.

#### **Inquiry into report**

83. (1) If a report is made to the band manager under subsection 82(2) or (3), the band manager must inquire into the circumstances reported and report the findings to the Finance Committee as soon as practicable.
- (2) If a report is made to the Chair of the Finance Committee under section 82, the Chair must inquire into the circumstances reported and report the findings to the Finance Committee as soon as practicable.
- (3) The Finance Committee may make a further inquiry into any findings reported to it under this section but, in any event, must make a report to the Council respecting any circumstances reported to the Finance Committee under this section including the Finance Committee's recommendations, if any.

#### **Protection of parties**

84. (1) All reasonable steps must be taken by the band manager, the members of the Finance Committee and the Councillors to ensure that the identity of the person who makes a report under section 82 is kept confidential to the extent practicable in all the circumstances.
- (2) A person who makes a report in good faith under section 82 must not be subjected to any form of reprisal by the First Nation or by a Councillor, officer, employee, contractor or agent of the First Nation as a result of making that report.
- (3) The band manager and the Chair of the Finance Committee must take all necessary steps to ensure that subsection (2) is not contravened and must report any contravention or suspected contravention to the Council.
- (4) The Council must establish policies or procedures or give directions for the
  - (a) recording and safeguarding of reports made under section 82 and any records prepared during the inquiry or investigation into those reports;
  - (b) inquiry or investigation into reports made under section 82; and

- (c) fair treatment of a person against whom a report has been made under section 82.

**Liability for improper use of money**

85. (1) A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this law or the First Nation's local revenue law is personally liable to the First Nation for that amount.
- (2) Subsection (1) does not apply if the Councillor relied on information provided by an officer or employee of the First Nation 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 the First Nation under subsection (1) may be recovered for the First Nation by the First Nation, a member of the First Nation or a person who holds a security under a borrowing made by the First Nation.
- (4) It is a good defence to any action brought against an officer or employee of the First Nation for unauthorized expenditure, investment or use of First Nation financial assets if it is proved that the officer or employee gave a written and signed warning to the Council that in their opinion, the expenditure, investment or use would be unlawful.

**Indemnification against proceedings**

86. (1) Subject to subsection (2), the Council may by resolution indemnify or provide for the indemnification of a named First Nation official, a category of First Nation official or all First Nation officials in accordance with the terms specified in the resolution.
- (2) The Council may not pay a fine that is imposed as a result of a First Nation official's conviction for an offence unless the offence is a strict or absolute liability offence.

**Periodic review of law**

87. At least every two years, the Finance Committee, in consultation with the band manager and the senior financial officer, must conduct a review of this law to
- (a) determine if it facilitates effective and sound financial administration of the First Nation;  
and
- (b) identify any amendments to this law that may better serve this objective.



**Provision of law to FNFA**

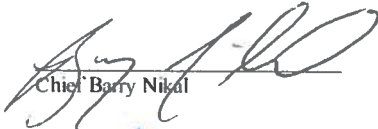
88. As soon as practical after the FMB approves the financial administration law of the First Nation, the Council must provide a copy of the law to the FNFA.

**Coming into force**

89. This law must come into force on the day after it is approved by the FMB.


THIS LAW IS HEREBY DULY ENACTED by Council on the 8<sup>th</sup> day of September, 2010 at Smithers, in the Province of British Columbia.

A quorum of Council consists of five (5) members of Council.

  
Chief Barry Nikal

Councillor Christopher Gagnon Sr.

  
Councillor Sandra George

  
Councillor Victor Jan

  
Councillor Marvin Joseph

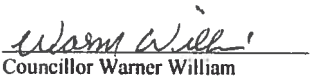
  
Councillor Avril Lewis

  
Councillor Lillian Lewis

  
Councillor Duane Mitchell

  
Councillor Lorena Morris

  
Councillor Andrew Tom

  
Councillor Warner William

## SCHEDULE A

### MORICETOWN INDIAN BAND CONFLICT OF INTEREST REGULATION

#### *MORICETOWN INDIAN BAND FINANCIAL ADMINISTRATION LAW, 2010*

The Council of the Moricetown Indian Band, pursuant to paragraph 9(6)(a) of the *Moricetown Indian Band Financial Administration Law, 2010*, hereby makes the *Moricetown Indian Band Conflict of Interest Regulation*.

### PART ONE - INTERPRETATION

#### Interpretation

1. (1) In this regulation,
  - “**conflict of interest**” has the meaning given to the term at section 2;
  - “**FAL**” means the *Moricetown Indian Band Financial Administration Law, 2010*; and
  - “**real property**” includes an interest in a reserve held under a certificate of possession under the *Indian Act*.
- (2) Except as otherwise expressly provided in this regulation, words and expressions used in this regulation have the same meanings as in the FAL.
- (3) If there is a conflict between a provision of this regulation and the FAL, the provision of the FAL applies.

#### Definition of conflict of interest

2. (1) A conflict of interest arises where a Councillor, Finance Committee member, officer, employee, committee member, contractor or agent of the First Nation has an interest that is
  - (a) real, potential or perceived;
  - (b) direct or indirect; and
  - (c) personal or financial,and which
  - (d) competes, or appears to compete, with
    - (i) the interests of the First Nation, or
    - (ii) the objective exercise of the individual’s powers, duties, functions or responsibilities.
- (2) For greater clarity, an individual’s personal or financial interests include the personal or financial interests of the individual’s family members.

- (3) Despite subsections (1) and (2), an individual's interests do not give rise to a conflict of interest if
  - (a) the interests are the same as those of a broad class of members of the First Nation, of which the individual is a member;
  - (b) in the case of a Councillor, the interests relate to remuneration, leave and benefits owed to all Councillors; or
  - (c) the interests 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.
- (4) An individual may also declare themselves to be in a conflict of interest even if the circumstances do not fit within the term as defined at subsections (1) to (3).

## **PART TWO – COUNCILLORS AND COMMITTEE MEMBERS**

### **Application**

3. (1) This Part applies to all Councillors of the First Nation.
- (2) Sections 4, and 6 to 9, apply to a member of a Council committee and all references in those sections to a
  - (a) Councillor are considered to be references to a member of a Council committee, and
  - (b) Council meeting are considered to be references to a Committee meeting.

### **General obligations**

4. (1) Councillors must avoid circumstances that could result in the Councillor having a conflict of interest or an apparent conflict of interest.
- (2) Councillors must 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 must file with the band manager a written disclosure of
  - (a) the name of the Councillor's spouse;
  - (b) the employer of the Councillor and the Councillor's spouse;
  - (c) real property owned by the Councillor or the Councillor's spouse; and
  - (d) business interests and material investments of the Councillor or the Councillor's spouse.
- (2) A Councillor must file a written disclosure under subsection (1)

- (a) within 30 days of being elected to the Council;
  - (b) as soon as practical after a material change in the information previously disclosed; and
  - (c) on April 15 of each year that the Councillor holds office.
- (3) The band manager must establish and maintain a register of all information disclosed by a Councillor under this section and section 6.

### **Gifts and benefits**

6. (1) A Councillor, or a person referred to in subsection 2(2) in relation to that Councillor, must not accept a gift or benefit that might reasonably be seen to have been given to influence the Councillor in the exercise of the Councillor's powers or performance of the Councillor's duties or functions.
- (2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit
- (a) would be considered within normal
    - (i) protocol exchanges or social obligations associated with the Councillor's office,
    - (ii) exchanges common to business relationships, or
    - (iii) exchanges common at public cultural events of the First Nation;
  - (b) is of nominal value; or
  - (c) is given by a friend or relative as an element of that relationship.
- (3) Where a gift with a value greater than \$500 is given to a Councillor, or a person referred to in subsection 2(2), the Councillor must make a written disclosure of the gift to the band manager and the gift must be treated as the property of the First Nation.
- (4) Subsection (3) does not apply to a gift received during a public cultural event of the First Nation.

### **Confidential information**

7. (1) During and after their term, Councillors must keep confidential all information that they receive while performing their duties or functions unless the information is generally available
- (a) to members of the public, or
  - (b) to members of the First Nation.
- (2) A Councillor must only use confidential information referred to in subsection (1) for the specific purposes for which it was provided to the Councillor.
- (3) Councillors must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the Councillor's private interests or those of relatives, friends or associates.

### **Procedure for addressing conflict of interest**

8. (1) As soon as a Councillor becomes aware of circumstances in which the Councillor has a conflict of interest, the Councillor must disclose the circumstances of the conflict of interest at the next Council meeting.
- (2) A Councillor must leave any part of a Council meeting where the circumstances in which the Councillor has a conflict of interest are being discussed or voted on.
- (3) The minutes of a Council meeting must record the Councillor's disclosure under subsection (1) and note the Councillor's absence from the Council meeting when the circumstances in which the Councillor has a conflict of interest were being discussed or voted on.
- (4) A Councillor must not take part in any discussions or vote on any decision respecting the circumstances in which the Councillor has a conflict of interest.
- (5) A Councillor must not influence or attempt to influence in any way before, during or after a Council meeting any discussion or vote on any decision respecting the circumstances in which the Councillor has a conflict of interest.
- (6) Where, as a result of a conflict of interest, a quorum of a Council committee cannot be reached, the matter must be brought before the Council.
- (7) Where, as a result of a conflict of interest, a quorum of the Council cannot be reached, the Council must, at its discretion
  - (a) have the matter decided by a majority of the remaining Council members;
  - (b) seek the advice of a neutral third party;
  - (c) bring the matter to a mediator or arbitrator; or
  - (d) have the members of the First Nation decide the matter at a meeting of members.

### **Procedure for undisclosed conflict of interest**

9. (1) If a Councillor has reason to believe that another Councillor has a conflict of interest or an apparent conflict of interest in respect of a matter before the Council, the Councillor may request clarification of the circumstances at a Council meeting.
- (2) If, as a result of a clarification discussion under subsection (1), a Councillor is alleged to have a conflict of interest or an apparent conflict of interest and the Councillor does not acknowledge the conflict of interest or apparent conflict of interest and take the actions required under section 8, the Council must determine whether the Councillor has a conflict of interest or an apparent conflict of interest before the Council considers the matter referred to in subsection (1).
- (3) The minutes of the Council meeting must record any determination made by the Council under subsection (2).
- (4) If the Council determines under subsection (2) that a Councillor has a conflict of interest or an apparent conflict of interest, the Councillor must comply with section 8.

## **PART THREE – OFFICERS AND EMPLOYEES**

### **Application**

10. This Part applies to all officers and employees of the First Nation.

### **General obligations**

11. (1) In the performance of their duties and functions, an officer or employee must act honestly and in good faith and in the best interests of the First Nation.
- (2) An officer or employee must 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 must 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 band manager must ensure that every officer and employee is informed of their obligations under this Part and must take steps to ensure that employees comply with these obligations.

### **Disclosure of conflict of interest**

12. (1) If an officer or employee believes he or she has a conflict of interest, the officer or employee must
- (a) disclose the circumstances in writing as soon as practical to the band manager or, in the case of the band manager, to the Chair of the Finance Committee, and
- (b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the band manager 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 must 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 normal
- (i) protocol exchanges or social obligations associated with the person's position,
- (ii) exchanges common to business relationships, or
- (iii) exchanges common at public cultural events of the First Nation;
- (b) is of nominal value; or

(c) is given by a friend or relative as an element of that relationship.

#### **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 must disclose these employment or business interests in writing to the band manager or, in the case of the band manager, to the Chair of the Finance Committee.
- (2) An officer or employee must 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) During and after their term of employment or appointment, an officer or employee must 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 the First Nation.
- (2) An officer or employee must 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 must 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 must not use any personal property or services of the First Nation 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) Officer and employees must not acquire any personal property of the First Nation unless it is done in accordance with policies or directions of the Council.

### **PART FOUR - HONORARIA**

#### **Honoraria**

17. (1) If a Councillor, officer or employee is required as part of their position or under their job description or employment contract to sit on a committee, society, board or other entity, or to attend or present at a conference, course or workshop, then
  - (a) the First Nation must pay for the Councillor, officer or employee's salary and travel expenses, related to their involvement in the activity described at subsection (1); and

- (b) the officer or employee must return to the First Nation any honoraria or travel subsidy that they receive as a result of their involvement in the activity described at subsection (1).
- (2) If a Councillor, officer or employee chooses to sit on a committee, society, board or other entity, or to attend or present at a conference, course or workshop on their own time, then the Councillor, officer or employee
  - (a) must pay for all of the travel and other expenses related to their involvement in the activity described at subsection (2);
  - (b) must participate in the activity described at subsection (2) outside of work hours, or use approved vacation time or other leave; and
  - (c) is entitled to keep any honoraria or travel subsidy given to the Councillor, officer or employee as a result of their involvement in the activity described at subsection (2).

## **PART FIVE – CONTRACTORS AND AGENTS**

### **Application**

- 18. (1) This Part applies to all contractors of the First Nation, other than a person who has an employment contract with the First Nation.
- (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 the First Nation.

### **Contractor acting as officer or employee**

- 19. If a contractor is retained to exercise the powers or perform the duties or functions of an officer or employee, the contractor must comply with Part Three of this regulation as if the contractor were an officer or employee of the First Nation.

### **General obligations**

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



### **Confidential information**

21. (1) A contractor must 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 must 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 must 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.

### **First Nation property and services**

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