

FINANCIAL MANAGEMENT BYLAW



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TOOLBOX CHAPTER SUMMARY

WHAT IS A FINANCIAL MANAGEMENT BYLAW?

A key component of the First Nations Financial Code Toolbox is the ability for First Nations to make laws and enforce them. The Financial Management and Accountability Project Committee agreed that a sample financial management by-law would be an important part of the Financial Code Toolbox.

Section 83 of the Indian Act provides for the development of laws in variety of areas. Some First Nations have undertaken the development of a financial management by-law, in particular those that entering into the area of taxation, claims management and economic development.

WHAT DOES A FINANCIAL MANAGEMENT BYLAW INCLUDE?

Key components of the Financial Management Bylaw includes:

1. Council Responsibilities

This covers the area of planning and budgeting for service and capital projects and hiring of competent financial management staff. As well, council responsibilities in the areas of annual budgeting, expenditures, information on contracts and tenders, financial statements and audit requirements is covered.

Sample excerpt from Policy

- b) *Hiring the Band Manager (or other appropriate title) who shall oversee the work of the First Nation employees;*
- c) *Ensuring there is full financial accountability to First Nation members at all times and to funding agencies as required under any agreement with those agencies;*
- d) *Ensuring that First Nation employees responsible for maintaining financial records and management of First Nation programs are qualified for the position to which they are appointed or that they receive adequate training on the job in respect to their duties and become qualified within a reasonable period of time;*
- e) *permitting access by all First Nation members under the supervision of Council, or its designate, at reasonable times during regular working hours, to the minutes of Council and the general membership meetings, bylaws, Band Council Resolutions, budget, audited financial statements and any other financial information as may be permitted under this bylaw;*

2. Conflict of Interest Guidelines

In the development of financial management by-laws conflict of interest guidelines are needed to ensure transparency in financial management procedures.

Sample excerpt from Policy

37. *A “Conflict of Interest” will arise when:*

- a) *A Councilor, Employee, Committee member or Board member/director exercises an official power or performs an official duty or function in the execution of his or her office, job or committee and at the same time knows or ought to know that in the performance of the duty or function or in the exercise of the power there is opportunity to receive a Financial Benefit for themselves or to provide a Financial Benefit to a Related Person; or*

3. Financial Information Disclosure

This are relates to the need for accountability to membership and access to financial information. Disclosure also deals with Council member's requirement to provide information about potential financial benefits through Council decisions.

Sample excerpt from Policy

39. *The purpose of this Policy is to make the First Nation more accountable to Membership by giving Membership a general right of access to financial records of the First Nation in the custody or under the control of the First Nation. This Policy also sets out specific limited exceptions to the Membership’s right of access to certain financial records. The Band must have a policy as (APPENDIX “B”) (See attached sample).*

4. Dispute Resolution

This section of the by-law ensures there is a process for redress where a band member feels they would be adversely affected by a Council or administrative decision. This area also includes a process for mediation or arbitration.

Sample excerpt from Policy

ADMINISTRATIVE DECISIONS

43. *A Member may appeal a decision of the Band Manager (or other appropriate title) or First Nation administration which adversely affects them financially within 30 days by providing Council a written notice to appeal and containing the reasons of appeal.*

44. *Upon receipt of written notice to appeal from a Member, Council will*

hear the Member's appeal within 30 days at a Council meeting in accordance with section

MEDIATION AND ARBITRATION

45. *In the event of a dispute between Council and Membership in respect of this policy, the dispute may be resolved by either mediation or arbitration if Membership at a General Meeting resolves to settle the dispute by either mediation or arbitration.*

WHAT SAMPLE POLICIES DOES THIS CHAPTER INCLUDE?

This toolbox chapter includes sample policies that your First Nation can adapt. The policies are:

- **Conflict of Interest**
- **Disclosure**
- **Contracts and Tenders**
- **Optional Committees and Boards**

Sample excerpt from "Contracts and Tenders" Policy

5. *Each order for work, goods or services over fifteen thousand dollars or such greater amounts as approved by Council, unless approved in the annual budget, shall, in addition to the signature of the department or agency manager, require attestation by the Finance Manager as to availability of funds.*
6. *Capital purchases up to fifteen thousand dollars or such greater amounts as approved by Council may be made by a department or agency manager if approved in the annual budget without going to tender.*
7. *Capital purchases over fifteen thousand dollars and under five hundred thousand dollars or in such amounts as approved by Council may be made by invitations to tender.*
8. *Capital purchases in excess of five hundred thousand dollars or such greater amounts as approved by Council must be made by public tender*
9. *In emergency situations telephone bids up to twenty thousand dollars or such greater amounts as approved by Council may be accepted by a department or agency manager providing a written confirmation follows from the bidder and a record of telephone bids is filed.*

In conclusion, law making is an important part of First Nations governance and will require sound **judgement** in their creation. Provided laws are based on a shared vision and constitutional provisions they will meet the needs of the community. This will in turn provide a solid base for health, social and economic development.