# A1

## FINANCIAL ADMINISTRATION LAW

# REVIEW PROCEDURES

First Nations FINANCIAL MANAGEMENT BOARD

www.fnfmb.com

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# Table 1 - LIST OF CORE DOCUMENTS

The following table lists the core documents made available by the First Nations Financial Management Board ("the FMB") for First Nations to utilize in developing, implementing and improving their financial management.

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| | **FINANCIAL ADMINISTRATION LAW** | | |
| ☑ | A1 | Financial Administration Law – **Review Procedures** | Procedures to apply when requesting a compliance approval of the First Nation's Financial Administration Law. |
| | A2 | Financial Administration Law – **Standards** | Standards that support sound financial administration practices for a First Nation government in Canada. |
| | A3 | **Sample** Financial Administration Law | Example of a law which meets the requirements of the A2 Financial Administration Law – Standards. |
| | A4 | Financial Administration Law – **Explanatory Notes** | Provides assistance on the development of a Financial Administration Law by discussing the structure and substantive content of the A3 Sample Financial Administration Law. |
| | A5 | Financial Administration Law – **Self-Assessment** | Tool that can be utilized to compare existing or proposed Financial Administration Law(s) of the First Nation to the A2 Financial Administration Law – Standards. |
| | **FINANCIAL MANAGEMENT SYSTEM** | | |
| | B1 | Financial Management System – **Certification Procedures** | Procedures to apply when requesting a review of the First Nation's financial management system. |
| | B2 | Financial Management System – **Standards** | Standards that support sound financial practices for the operation, management, reporting and control of the financial management system of a First Nation. |
| | **FINANCIAL PERFORMANCE** | | |
| | C1 | Financial Performance – **Certification Procedures** | Procedures to apply when requesting a review of the First Nation's financial performance. |
| | C2 | Financial Performance – **Standards** | Standards that assess the historical financial performance of a First Nation over a five year period using up to six financial ratios. |
| | **LOCAL REVENUE ACCOUNT FINANCIAL REPORTING** | | |
| | D1 | Local Revenue Financial Reporting – **Standards** | Standards that establish requirements for the financial reporting of a First Nation's local revenues and expenditures. |
| | D2 | Local Revenue Financial Reporting – **Illustrative Financial Statements** | Illustrative annual financial statements for a First Nation's local revenues and expenditures designed to comply with the D1 Local Revenue Financial Reporting – Standards. |
| | D3 | Local Revenue Financial Reporting – **Illustrative Segment Note Disclosure** | Illustrative segment note disclosure for inclusion in the annual financial statements of a First Nation designed to comply with the D1 Local Revenue Financial Reporting – Standards. |
| | D4 | Local Revenue Financial Reporting – Explanatory Notes | Explanatory notes to accompany D1 Local Revenue Financial Reporting – Standards. |

# TABLE OF CONTENTS

**Table 1 - LIST OF CORE DOCUMENTS** ..... i

**FINANCIAL ADMINISTRATION LAW REVIEW PROCEDURES** ..... 1

1.0 AUTHORITY TO ESTABLISH PROCEDURES ..... 1

2.0 PURPOSE OF PROCEDURES ..... 1

3.0 APPLICATION OF THESE PROCEDURES ..... 1

4.0 INTERPRETATION ..... 1

5.0 REQUEST FOR ASSISTANCE ..... 2

6.0 REQUEST FOR FORMAL REVIEW OF FAL ..... 2

7.0 REVIEW AND REPORT TO FMB ..... 4

8.0 COMPLIANCE APPROVAL ..... 4

9.0 RECONSIDERATION OF FMB DETERMINATION ..... 5

10.0 REVIEW OF AMENDMENTS TO FAL ..... 5

11.0 FMB REPORT TO INSTITUTIONS ..... 5

# FIRST NATIONS FINANCIAL MANAGEMENT BOARD

# FINANCIAL ADMINISTRATION LAW REVIEW PROCEDURES

## 1.0 AUTHORITY TO ESTABLISH PROCEDURES

**1.1 Act authority** – Procedures respecting the compliance approval of First Nation financial administration laws under section 9 of the *First Nations Fiscal Management Act* ("the Act") are established by the FMB under paragraph 55(2)(a) of the Act.

**1.2 Procedure revisions** – Procedures may be amended or revised from time to time by the FMB.

**1.3 Access to procedures** – FMB procedures in effect from time to time may be accessed at the FMB's web site (www.fnfmb.com).

## 2.0 PURPOSE OF PROCEDURES

**2.1 Purpose** – The purpose of these procedures is to establish a process for the FMB to:

a. provide assistance to First Nations in the development, amendment, repeal and replace, or repeal without replacement of their financial administration law;

b. review a First Nation's financial administration law, amended financial administration law, or financial administration repeal law;

c. determine whether a financial administration law was duly made by the Council as per subsection 9(4) of the Act;

d. determine whether a financial administration law was made in accordance with this Act, the regulations or any standards as per subsection 9(5) of the Act;

e. issue a compliance approval of a First Nation's financial administration law;

f. communicate with other institutions under the Act when a compliance approval is issued; and

g. file the financial administration law in the First Nation's Gazette as per subsection 55(4) of the Act.

## 3.0 APPLICATION OF THESE PROCEDURES

**3.1 Application** – These procedures apply where a First Nation is requesting FMB compliance approval of the First Nation's law respecting financial administration under section 9 of the Act.

## 4.0 INTERPRETATION

**4.1 Definitions** – Unless the context indicates otherwise, in these procedures:

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

"**FAL**" or **"financial administration law"** means a law or laws respecting financial administration;

**"Repeal FAL" or "financial administration repeal law"** means a law or laws respecting repealing of financial administration law(s);

**"FAL reviewer"** means the person appointed by the FMB under section 7.1 of these procedures;

"***Financial Administration Law Standards***" means the *Financial Administration Law Standards* established by the FMB under paragraph 55(1)(a) of the Act;

**"FMB"** means the First Nations Financial Management Board.

**4.2 Interpretation –** In these procedures, a reference to a determination that a FAL was made in accordance with the *Financial Administration Law Standards* means a determination that the FAL was made in accordance with the Standards, in all material respects.

## 5.0 REQUEST FOR ASSISTANCE

**5.1 Letter of Cooperation –** A First Nation may initiate a client relationship with the FMB by delivering to the FMB a Letter of Cooperation in the form and with the terms required by the FMB.

**5.2 Written request for assistance –** A First Nation may make a written request to the FMB for assistance in the development and enactment of a FAL under section 9 of the Act.

**5.3 Nature of Assistance –** The FMB will determine, in its sole discretion, the nature of any assistance it provides to a First Nation under this section including, but not limited to, conducting an informal review of a draft FAL.

**5.4 Template form –** The recommended template letter of cooperation referred to in section 5.1 is on the FMB's web site (www.fnfmb.com).

## 6.0 REQUEST FOR FORMAL REVIEW OF FAL

**6.1 Required resolution for formal review –** A First Nation must submit a resolution of council to the FMB which must include the following:

a. request to formally review the First Nation's FAL to determine whether it meets the *Financial Administration Law Standards*;

b. request to issue to the First Nation a compliance approval of its FAL under section 9 of the Act;

c. direction to a representative to deliver to the FMB any documents required by the FMB to determine if the FAL was duly made by the Council, made in

accordance with the Act, its regulations and the *Financial Administration Law Standards*;

d. authorization to the FMB, after issuing a compliance approval of the FAL, to deliver a copy of the FAL to the First Nation's Gazette;

e. agreement to indemnify, defend and hold harmless the FMB, its directors, officers, employees and every person acting on behalf of the FMB, its directors, officers and employees from any damages, costs, claims or causes of action regarding any aspect of the formal review including opinions, reports and whether a compliance approval is issued or revoked, unless the damages, costs, claims or causes of action result from gross negligence or bad faith; and

f. confirmation that the resolution was approved at a duly called and conducted council meeting at which the required quorum of councillors was present throughout and the required number of councillors approved the resolution at the meeting.

**6.2 Required resolution for formal review of the Repeal FAL** – A First Nation must submit a resolution of council to the FMB which must include the following:

a. request to formally review the First Nation's Repeal FAL to repeal any previously approved FAL(s) that remain in force;

b. request to issue to the First Nation a compliance approval of its repeal FAL pursuant to section 9 of the Act;

c. direction to a Nation representative to deliver to the FMB any documents required by the FMB to determine if the Repeal FAL was duly made by the Council, made in accordance with the Act, its regulations and the *Financial Administration Law Standards*;

d. authorization to the FMB, after issuing a compliance approval of the FAL, to deliver a copy of the Repeal FAL to the First Nation's Gazette;

e. agreement to indemnify, defend and hold harmless the FMB, its directors, officers, employees and every person acting on behalf of the FMB, its directors, officers and employees from any damages, costs, claims or causes of action regarding any aspect of the formal review including opinions, reports and whether a compliance approval is issued or revoked, unless the damages, costs, claims or causes of action result from gross negligence or bad faith; and

f. confirmation that the resolution was approved at a duly called and conducted council meeting at which the required quorum of councillors was present throughout and the required number of councillors approved the resolution at the meeting.

**6.3 Videoconference or teleconference council meeting –** the *Indian Act* allows, if exceptional circumstances arise which prevent council from meeting in person, council meetings to proceed by way of a videoconference or teleconference. In this situation, then the resolution of the council in section 6.1 and 6.2 must also include:

a. confirmation that the council meeting was held by videoconference or teleconference;

b. a statement describing the exceptional circumstances as to why the council meeting held by videoconference or teleconference;

c. confirmation that the council meeting allowed First Nation citizen participation;

d. a statement whether the Law may be signed in counterparts and electronically which together constitute an original instrument or a statement that the Law may be enacted without signatures; and

e. a statement whether the resolution may be signed in counterparts and electronically which together constitute an original instrument.

**6.4 Template forms –** The recommended template forms for the resolutions required in section 6.1 and 6.2 are on the FMB's website (www.fnfmb.com).

## 7.0 REVIEW AND REPORT TO FMB

**7.1 Conduct of review –** The FMB will appoint a person from its list of approved FAL reviewers to conduct the review of a First Nation's FAL when requested by a First Nation under these procedures.

**7.2 Report to the FMB –** The FAL reviewer who has conducted a review of a First Nation's FA under these procedures will deliver a report to the FMB setting out the reviewer's findings.

**7.3 Determination by the FMB –** The FMB will consider the report of the FAL reviewer to determine if the First Nation's FAL was made in accordance with the Act, its regulations and the *Financial Administration Law Standards*.

## 8.0 COMPLIANCE APPROVAL

**8.1 Meeting Standards –** If the FMB determines that the First Nation's FAL was made in accordance with the Act, its regulations and the *Financial Administration Law Standards,* the FMB will

a. advise the First Nation in writing that it has reviewed the FAL and determined that it was made in accordance with the Act, its regulations and the *Standards*, and

b. issue a compliance approval of the FAL under section 9 of the Act.

**8.2 Failing to meet Standards –** If the FMB determines that the First Nation's FAL was not made in accordance with the Act, its regulations or the *Financial Administration Law Standards,* the FMB will advise the First Nation in writing of its determination, including any requirements that have not been met, and may indicate at a general level how any identified failures may be rectified.

**8.3 Limits on authority to approve –** The FMB may not issue a compliance approval of a First Nation's FAL for purposes of section 9 of the Act if the FMB determines that it was not made in accordance with the Act, its regulations or the *Financial Administration Law Standards.*

## 9.0 RECONSIDERATION OF FMB DETERMINATION

**9.1 Request reconsideration –** A First Nation that has been advised under section 8.2 that its FAL was not made in accordance with the Act, its regulations or the *Financial Administration Law Standards* may, within sixty (60) days of being so advised, request the FMB to reconsider its determination.

**9.2 Requirements for request –** A request made under section 9.1 must be made in writing and must include new information or reasons for the FMB to reconsider its determination.

**9.3 Discretion to reconsider –** On receipt of a request for reconsideration, the FMB may decide, in its sole discretion, if the request sets out a basis for the FMB to reconsider its determination and will advise the First Nation in writing of its decision as soon as practical.

**9.4 Reconsideration –** If the FMB decides to reconsider its determination, the FMB will advise the First Nation in writing of the results of its reconsideration as soon as practical.

## 10.0 REVIEW OF AMENDMENTS TO FAL

**10.1 Application to amend FAL –** These procedures apply to a request by a First Nation to conduct a formal review of an amendment to its FAL to determine if it is made in accordance with the Act, its regulations and the *Financial Administration Law Standards* and to request the FMB to issue a compliance approval of the amendment to its FAL under section 9 of the Act.

**10.2 Application to repeal FAL –** These procedures apply to a request by a First Nation to conduct a formal review of a Repeal FAL to determine if it is made in accordance with the Act and its regulation and to request the FMB to issue a compliance approval of the Repeal FAL under section 9 of the Act.

## 11.0 FMB REPORT TO INSTITUTIONS

**11.1 Report of compliance approval –** With consent or on request of a First Nation, the FMB will advise the First Nations Finance Authority and the First Nations Tax Commission when the FMB issues a compliance approval of a First Nation's FAL or an amendment to its FAL under section 9 of the Act.

**11.2 Filing with registry** – After the FMB issues a compliance approval of a First Nation's FAL, an amendment to its FAL, or a Repeal FAL under section 9 of the Act, the FMB will submit a copy of the FAL, amended FAL, or Repeal FAL to the registry referred to in subsection 31(4) of the Act.



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