A2

FINANCIAL ADMINISTRATION LAW

STANDARDS

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.

	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 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.

BACKGROUND CONTEXT

The *First Nations Fiscal Management Act* ("the Act") establishes several First Nation institutions – the First Nations Tax Commission ("the FNTC"), the First Nations Financial Management Board ("the FMB") and the First Nations Finance Authority ("the FNFA") - with mandates designed to permit First Nations access to financial markets on a similar basis as municipalities and local governments in Canada.

Working in a collaborative framework these three institutions facilitate the voluntary development of First Nations capacity to access these markets - by assisting them to use their available revenue streams to secure funding and by assisting them to implement a sound financial administration system in which investors and other stakeholders would have confidence - by negotiating on their collective behalf the borrowing of funds from these financial markets.

In order for a First Nation to access these markets through this legislative program, the First Nation must become a "borrowing member" of the FNFA. Before a First Nation is eligible to be considered for membership in the FNFA, the FMB must issue a Financial Performance Certificate to the First Nation indicating that the First Nation was in compliance with the *Financial Performance Standards*. This Certificate supports a First Nation's application to become a borrowing member of the FNFA and its first financing from the FNFA.

The First Nation must obtain a Financial Management System Certificate from the FMB within 36 months after the First Nation receives proceeds for the first time from a debenture (or equivalent instrument) issued by the FNFA or before it may obtain a second loan from the FNFA. The FMB has issued the *Financial Management System Standards* for purposes of issuing a First Nation a Financial Management System Certificate.

The FMB has also issued the *Financial Management System Certification Procedures* and the *Financial Performance Certification Procedures* to guide First Nations who are applying for a certificate from the FMB.

A First Nation will not be issued a Financial Management System Certificate or a Financial Performance Certificate by the FMB unless the First Nation's law or laws respecting financial administration have first been reviewed and issued a compliance approval under section 9 of the Act by the FMB. The First Nation's law or laws must meet the requirements of these *Financial Administration Law Standards* before they will be given a compliance approval. The FMB has issued the *Financial Administration Law Review Procedures* to guide First Nations who are applying for compliance approval of their law or laws respecting financial administration. It may be necessary for a First Nation to bring its already approved law or laws respecting financial administration up to date to meet the current *Financial Administration Law Standards* before it will be issued a Financial Management System Certificate. This may be necessary if there has been some significant period of time between the FMB's approval of the First Nation's financial administration law and its request for a Financial Management System Certificate.

Effective April 1, 2016 all financial administration laws made under section 9 of the Act must be made in accordance with the Act, the regulations and, in all material respects, the *Financial Administration Law*

Standards. All laws made under section 9 of the Act must be reviewed and approved by the FMB before they come into force – whether or not the First Nation intends to raise local revenues under the Act or become a borrowing member of the FNFA.

To assist First Nations the FMB has prepared and made available *Sample Financial Administration Laws* which meet the requirements of these *Financial Administration Law Standards* and which reflects sound financial administration practices of local, provincial and federal government in Canada. There are several versions of this Sample Law available – one version meets the standards required to be met by First Nations already raising or intending to raise local revenues under the Act and another version meets the standards required to be met by First Nations that are neither raising, nor intending to raise, local revenues under the Act.

The *Financial Administration Law Standards* contained in this document and *Sample Financial Administration Laws* developed by the FMB, are intended to support adoption of "sound practices" respecting First Nation financial administration. They were prepared after review of laws, standards and other publications from the following sources:

- existing First Nation financial administration laws publicly available to the FMB
- treaty provisions relating to financial administration
- financial administration requirements for local governments in Canada
- financial administration laws of Canada and of several provincial governments
- *First Nations Fiscal Management Act*, regulations to the Act and FNTC sample local revenue laws and standards
- section 83 of the *Indian Act* and First Nation assessment, taxation, rates, budget and other laws made under the Act
- the elements of the *First Nations Land Management Act* and of the *First Nations Oil and Gas and Moneys Management Act* relevant to financial administration
- sample agreements between Canada and First Nations and between provinces and First Nations respecting programs and services funding
- COSO (Committee of Sponsoring Organizations of the Treadway Commission) Internal Control Over External Financial Reporting
- CPA (Chartered Professional Accountants) Canada Public Sector Accounting Handbook
- PSAB (Public Sector Accounting Board) Guide to Accounting for and Reporting Tangible Capital Assets
- CICA (Canadian Institute of Chartered Accountants) Study: Financial Reporting by First Nations
- CSA (Canadian Securities Administrators) requirements and guidelines.

The FMB Standards and *Sample Financial Administration Laws* were established (and will continue to be updated as necessary) through an ongoing process of FMB internal review and revision that has involved members of the former First Nations Financial Management Board Advisory Panel (which directed the original legislative development), members of the Board of Directors of the FMB and industry technical advisors, including lawyers and accountants experienced in First Nation advisory services.

FMB has carried out case studies of the potential requirements of the standards and procedures with several representative First Nations, to test document and system content and application. The FNTC and the FNFA have reviewed and provided comment on the FMB standards, procedures and sample laws to ensure they do not conflict with FNTC and FNFA authorities applicable to scheduled First Nations including FNFA borrowing members.

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FIRST NATIONS FINANCIAL MANAGEMENT BOARD

FINANCIAL ADMINISTRATION LAW STANDARDS

INTRODUCTION

1.0 PURPOSE

1.1 Purpose of standards – The purpose of these standards is to identify elements of a financial administration law that support sound financial administration practices for a First Nation government in Canada and that comply with the requirements of the Act and its regulations.

2.0 REVIEW PROCEDURES

2.1 Application of Procedures – The *Financial Administration Law Approval Procedures* apply to these *Financial Administration Law Standards.*

3.0 INTERPRETATION OF STANDARDS

3.1 Definitions – Unless the context indicates otherwise, in these standards:

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

"**auditor**" means the independent auditor of the First Nation appointed by the council;

"**borrowing member"** means a First Nation that is a borrowing member under the Act;

"**chief administrative officer**" means the senior administrative officer, band manager or general manager responsible for the day-to-day management or administration of the First Nation's administrative system;

"code" means a code adopted by the First Nation under the *First Nations Oil and Gas and Moneys Management Act* or a land code adopted by the First Nation under the *First Nations Land Management Act*;

"council" means the council of the First Nation and includes the chief of the First Nation;

"**councillor**" means a member of the council of the First Nation and includes the chief of the First Nation;

"**director of finance**" means the senior financial officer or controller responsible for the day-to-day management or administration of the First Nation's financial administration system;

"***FAL***" means a law or laws respecting financial administration of the First Nation;

"**financial administration**" includes financial management, financial performance and accountability;

"**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 institution" means the First Nations Finance Authority, a bank, credit union or caisse populaire;

"financial statements" means consolidated annual financial statements of the First Nation along with supporting note disclosure prepared in accordance with Canadian Public Sector Accounting Standards and signed by management.

"First Nations Finance Authority" means the First Nation Finance Authority established under the Act;

"**First Nation law**" means any law, including any bylaw or code, of the First Nation made by the council or the ~~membership~~ citizens of the First Nation;

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

"**fiscal year**" means the twelve (12) month period beginning on April 1st and ending on March 31st in the next year;

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

"**FMB standards**" mean the standards made by the FMB under the Act;

"**GAAP**" means generally accepted accounting principles of the Chartered Professional Accountants of Canada, as amended or replaced from time to time;

"**including**" means 'including, but not limited to';

"local revenue account" means an account with a financial institution into which local revenues are deposited separately from other moneys of the First Nation;

"**local revenue law**" means a local revenue law made by the First Nation under subsection 5(1) of the Act;

"**local revenues**" means money raised under a local revenue law;

"other revenues" means other revenues as defined in section 3 of the *Financing Secured by Other Revenues Regulations* made under the Act*;*

"**record"** means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise; and

"**tax administrator**" means the tax administrator responsible for the day-to-day management of local revenues and the local revenue account.

3.2 Application of Act definitions – Unless the context indicates otherwise, the words and expressions used in these standards and not otherwise defined have the same meanings as in the Act.

3.3 Rules of interpretation – In these standards, 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 expression have corresponding meanings;

c. a reference to a law, including a financial administration law, means the law as amended or replaced from time to time;

d. a reference to a standard means the standard as amended or replaced from time to time; and

e. headings, subheadings and notes are inserted for convenience of reference only, do not form part of these standards and in no way define, limit, alter or enlarge the scope or meaning of any provision of these standards.

3.4 Mandatory provisions – These standards establish requirements that a First Nation's *FAL* must satisfy unless a particular standard is expressed as permissive.

3.5 Compliance in all material respects – Before the FMB may issue a compliance approval under section 9 of the Act for a First Nation's *FAL* it must determine if the *FAL* was made in accordance with the Act, the regulations and, in all material respects, these *Financial Administration Law Standards.*

4.0 SOUND FINANCIAL ADMINISTRATION PRACTICES

4.1 Sound practices required – If a provision in these *Financial Administration Law Standards* is mandatory, the standard must be met so as to enable the First Nation to carry out its financial administration in a manner that substantially accords with sound financial administration practices of governments in Canada.

4.2 Applicable considerations – When determining how a mandatory provision is to be met in its *FAL*, the First Nation may take into consideration the unique characteristics of the First Nation, including its social, economic, legal and geographic environments. The FMB will take these considerations into account when determining if these standards have been met.

4.3 Minimal required content – These standards do not address all the subjects that a First Nation may wish to include in its financial administration law – only those subjects which the First Nation must include in its financial administration law in order to receive compliance approval of the law by the FMB under section 9 of the Act.

4.4 Permitted variations of content – The sample financial administration laws made available by the FMB include subject matter that these standards require to be included in a financial administration law but these standards are often written in a manner that permits the First Nation

to address the required subject matter in different ways – permitted variations that may not be obvious from a reading of a sample financial administration law. For a detailed discussion of each provision of the version of the sample financial administration law to be used for First Nations that are raising or intending to raise local revenues see *A4 - Sample Financial Administration Law - Explanatory Notes*.

PART ONE – INTERPRETATION AND APPLICATION

5.0 COMPREHENSION AND INTERPRETATION

5.1 Provisions for certainty – A *FAL* includes any necessary provisions to provide greater certainty in the meaning of the *FAL* including the interpretation of its provisions.

5.2 Permitted definitions – A *FAL* may include

a. a provision that defines words and phrases used in the *FAL*, and

b. a provision that, by reference, incorporates definitions used in the Act or other federal legislation.

5.3 Required definitions – A *FAL* includes definitions if they are necessary to satisfy standard 5.1.

5.4 Clarity – A *FAL* is written in a clear and unambiguous manner so that readers will understand what the law requires to be done or what actions the *FAL* permits to be taken. For example, a *FAL* should clearly specify in each instance, as appropriate, - **who** must do **what**, within **what time** period, in **what location** and in **what manner**.

5.5 Internal logic – The subject matter of a *FAL is* organized logically.

5.6 Consistency – The provisions of a *FAL* are consistent with each other.

6.0 CONFLICT BETWEEN LAWS

6.1 Between *FAL* and Act – A *FAL* provides that, in the event of a conflict between the *FAL* and the Act or any regulations made under the Act, the Act or the regulations prevail to the extent of the conflict.

6.2 Between *FAL* and other First Nation law – A *FAL* provides that, in the event of a conflict between the *FAL* and any other First Nation law, other than a code or a local revenue law, the *FAL* prevails to the extent of the conflict.

6.3 Between *FAL* and local revenue law – A *FAL* provides that, in the event of a conflict between the *FAL* and a local revenue law, the local revenue law prevails to the extent of the conflict.

7.0 APPLICATION

7.1 Extent of application – A *FAL* applies to the financial administration – including the receipt, control and expenditure – of all money and financial assets belonging to, or under the care or control of, the First Nation.

PART TWO – ADMINISTRATION

8.0 FIRST NATION COUNCIL

8.1 Responsibility – A *FAL* makes the council responsible for the financial administration of the First Nation whether or not any part of that function is assigned or delegated to an officer, employee, committee, contractor or agent under the *FAL*.

8.2 Delegation – A *FAL* permits the council to delegate to an officer, employee, committee, contractor or agent any function of the council respecting the financial administration of the First Nation except

a. the approval of policies respecting any financial administration matter which under the *FAL* are the responsibility of the council,

b. the approval of First Nation budgets,

c. the approval of First Nation borrowing,

d. the approval of First Nation financial statements, and

e. the appointment of members, chairperson and vice-chairperson of the finance and audit committee.

8.3 Policies and procedures

8.3.1 Authority to make – A *FAL* allows the council to establish policies and procedures respecting the financial administration of the First Nation but these must not be inconsistent with the *FAL* and with GAAP - except as permitted in standard 20.6.3.

8.3.2 Policies, etc. for assets – A *FAL* requires the council to establish appropriate policies and procedures respecting the acquisition, management and safeguarding of First Nation assets.

8.3.3 Documentation of policies, etc. – A *FAL* requires the council to document all the First Nation's policies and procedures respecting financial administration.

8.3.4 Making policies, etc. available – A *FAL* requires the council to make available all the First Nation's policies and procedures to all affected persons.

8.3.5 Procedure requirements - A *FAL* requires all procedures

a. to be consistent with, and made under the authority of, a policy approved by the council, and

b. to be approved by the chief administrative officer or the council.

8.3.6 Applicable procedures to repeal and amend - A *FAL* provides that the procedures in the *Financial Administration Law Review Procedures* apply to any amendments to a *FAL* or proposed repeal of a *FAL*.

9.0 REPORTING OF REMUNERATION AND EXPENSES

9.1 Defined terms – In standard 9.0:

"entity" means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the financial statements of the First Nation in accordance with GAAP;

"expenses" includes the costs of transportation, accommodation, meals, hospitality and incidental expenses; and

"remuneration" means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits.

1. **Annual report –** A *FAL* requires an annual report to be prepared listing for each councillor the remuneration paid and expenses reimbursed by the First Nation, and by any entity, whether such amounts are paid to the councillor while acting as councillor or in any other capacity.

10.0 FINANCE AND AUDIT COMMITTEE

10.1 Constitution

10.1.1 Committee established – A *FAL* provides for the establishment, makeup and other characteristics of a finance and audit committee - which may be named as appropriate to reflect the committee's functions.

10.1.2 Reporting to council – A *FAL* requires the finance and audit committee to report to the council and to provide council with advice and recommendations to support its decision-making process.

10.1.3 Membership – A *FAL* requires a finance and audit committee to have at least one (1) member who is either a voting or non-voting member from council.

~~a. consisting of three (3) members, to have at least one (1) member who is a councillor, and;~~

~~b. consisting of four (4) or more members, to have at least two (2) members who are councillors.~~

10.1.4 Financial competency – A *FAL* requires the finance and audit committee to have a majority of members who have financial competency.

10.1.5 Number of members – A *FAL* requires the finance and audit committee to have no fewer than three (3) members.

10.1.6 Membership requirements

10.1.6.1 Interpretation – For purposes of standard 10.1.6, an individual is independent if the individual does not have a direct or indirect financial relationship with the

First Nation government that could, in the opinion of council, reasonably interfere with the individual's exercise of independent judgment as a member of the finance and audit committee. The Director of Finance and Chief Administrative Officer are not considered independent for the purposes of this Standard.

10.1.6.2 Members to be independent – A *FAL* requires all members of the finance and audit committee to be independent as defined in standard 10.1.6.1.

10.1.6.3 Required policies and procedures – A *FAL* requires the council to make policies and procedures

a. establishing criteria to determine if an individual is eligible to be a member of the finance and audit committee and is independent,

b. requiring confirmation, before appointment, that each potential member of the finance and audit committee is eligible to be a member and is independent, and

c. requiring each member of the finance and audit committee annually to sign a statement confirming that the member continues to meet the criteria referred to in paragraph a.

10.2 Terms of office

10.2.1 Terms of office – A *FAL* requires the finance and audit committee members to be appointed for terms that are of a sufficient period of time to permit the members to develop a critical understanding of the financial administration system of the First Nation.

~~a. are of a sufficient period of time to permit the members to develop a critical understanding of the financial administration system of the First Nation, and~~

~~b. are staggered to ensure the continuing effectiveness of the committee and to provide for succession planning.~~

10.2.2 Cause for removal – A *FAL* provides for the events or circumstances when a finance and audit committee member may be removed from office.

10.2.3 Replacement member – A *FAL* provides that, if a member of the finance and audit committee is removed from office, resigns or dies before the member's term of office expires, the council must as soon as practicable appoint a new committee member to hold office for the remainder of the first member's term of office.

10.3 Permitted alternate member – A *FAL* may permit the council to establish a policy authorizing the appointment of one alternate member of the finance and audit committee to attend committee meetings and to vote in the place of a member of the committee who is unable to attend the meeting or to vote on a matter due to a conflict of interest if the policy requires the

alternate member to be a councillor who satisfies all the eligibility requirements for being a member of the committee.

10.4 Committee officers

10.4.1 Appointment of officers – A *FAL* requires the council to appoint a chairperson and a vice-chairperson of the finance and audit committee. ~~one (1) of whom must be a councillor.~~

10.4.2 Notice of meeting – A *FAL* requires the council to send notices and agendas of all council meetings to a non-councillor chairperson of the finance and audit committee.

10.4.3 Discretion of chairperson – A *FAL* gives a non-councillor chairperson of the finance and audit committee the discretion

a. to attend and speak at council meetings, and

b. to request and be provided with any materials or information provided to council respecting matters before it.

10.5 Committee procedures

10.5.1 Quorum – A *FAL* requires the quorum of the finance and audit committee to be at least fifty (50) percent of the total number of committee. ~~members including at least one councillor.~~

10.5.2 Voting rights – A *FAL* allows each member of the finance and audit committee to have one (1) vote on any question before the committee, subject to any recusals of a committee member resulting from the member's conflict of interest.

10.5.3 Tied vote – A *FAL* specifies the results of a tie vote or how the tie vote can be managed.

10.5.4 Senior officer attendance – A *FAL* requires the chief administrative officer and the director of finance to attend all finance and audit committee meetings, subject to reasonable exceptions.

10.5.5 Number of meetings – A *FAL* establishes a minimum number of meetings of the finance and audit committee for each fiscal year, including requiring the committee to meet

a. at least once every quarter, and

b. as soon as practicable after receipt of the audited annual financial statements and report from the auditor.

10.5.6 Committee minutes and report – A *FAL* requires the finance and audit committee

a. to provide minutes of each committee meeting, and

b. to report to council on the substance of the meeting including deliberations and recommendations, within a reasonable time after the meeting.

10.5.7 Permitted rules – A *FAL* may permit the finance and audit committee to make rules, not inconsistent with the *FAL* or any directions given by council, that the committee considers necessary for the conduct of its meetings.

10.6 Committee functions

10.6.1 Financial functions – A *FAL* assigns responsibility for the following matters to the finance and audit committee:

a. to prepare or review, and recommend to the council for approval, draft annual budgets and multi-year financial plans for the First Nation;

b. to monitor the financial performance of the First Nation against the annual budget and report significant variances to the council;

c. to review the First Nation's quarterly financial statements before their recommendation to the council for its approval; and

d. to review and make recommendations to the council respecting the First Nation's annual financial statements, including the annual financial statements respecting local revenues, and any special purpose reports.

10.6.2 Audit and oversight functions – A *FAL* assigns responsibility for the following matters to the finance and audit committee:

a. to make recommendations to the council respecting the selection, engagement and performance of the auditor;

b. to receive assurances on the independence of an auditor;

c. to make recommendations to the council respecting the planning, conduct and results of audit activities;

d. to make recommendations to council respecting policies and procedures on reimbursable expenses and perquisites of councillors and employees;

e. to monitor financial reporting risks and risk of fraud and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls at least annually;

f. to oversee and direct investigations into actual or alleged fraud where appropriate;

g. to review the *FAL* and recommend draft amendments to the council; and

h. to review and make recommendations to the council on the terms of reference of the committee.

i. to review the management letter/audit findings report and make recommendations to council respecting any internal control weaknesses or accounting issues identified.

10.6.3 Permitted functions – A *FAL* may assign responsibility to the finance and audit committee for any other matter respecting the financial administration of the First Nation that council considers would benefit from that committee's involvement.

10.6.4 Committee discretion – A *FAL* permits the finance and audit committee to make a report or recommendations to the council on any financial administration matter that is not otherwise specified to be its responsibility under the FAL.

10.6.5 Monitoring – A *FAL* requires the council to conduct an assessment of the committee's effectiveness and to provide for succession planning in accordance with its terms of reference and make a report or recommendations to the council at least annually.

11.0 FIRST NATIONS OFFICERS AND EMPLOYEES

11.1 Chief administrative officer

11.1.1 Appointment – A *FAL* or another First Nation law or resolution provides for the appointment and sets out the principal powers, duties and functions of the chief administrative officer who must be given responsibility for leading the day-to-day management or administration of the First Nation.

11.1.2 Reporting relationship – A *FAL* or another First Nation law or resolution requires the chief administrative officer to report directly to the council.

11.1.3 Permitted positions – For purposes of standard 11.1, the responsibilities of the chief administrative officer may be performed by more than one person so long as each person reports directly to council.

11.1.4 Duties and functions – A *FAL* or another First Nation law or resolution requires the chief administrative officer

a. to oversee, supervise and direct the activities of all officers and employees of the First Nation,

b. to oversee and administer the contracts of the First Nation,

c. to identify, assess, monitor and report on financial reporting risks and risk of fraud, and

d. to 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.

11.1.5 Permitted functions – A *FAL* or another First Nation law or resolution may permit the council to require the chief administrative officer to carry out other activities if they are

not contrary to the Act or inconsistent with the chief administrative officer's duties required in standard 11.1.

11.1.6 Permitted assignment – A *FAL* may permit the chief administrative officer to require an officer, employee, contractor or agent of the first nation to perform any of the chief administrative officer's duties or functions respecting financial administration of the First Nation but this assignment of duties or functions must not relieve the chief administrative officer of the responsibility to ensure that these duties or functions are carried out properly.

11.2 Director of finance

11.2.1 Appointment – A *FAL* provides for the appointment and sets out the principal powers, duties and functions of the director of finance who must be given responsibility for the day-to-day management or administration of the First Nation's financial administration system.

11.2.2 Reporting relationship – A *FAL* requires the director of finance to report directly to the chief administrative officer or the council.

11.2.3 Duties and functions – A *FAL* requires the director of finance to carry out the following functions:

a. to ensure the financial accounting systems, policies, procedures and internal controls are appropriately designed and operating effectively;

b. to administer and maintain all charts of accounts of the First Nation;

c. to prepare the annual budgets and multi-year financial plans of the First Nation with advice and input from the tax administrator for any component respecting local revenues;

d. to prepare the financial statements of the First Nation;

e. to prepare the financial components of reports to the council and financial information required by the council or the finance and audit committee;

f. to actively monitor compliance with any agreements and funding arrangements entered into by the First Nation;

g. to administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;

h. to actively monitor compliance with the legal obligations of the First Nation and any policies and procedures of the First Nation respecting its financial administration;

i. to evaluate the financial administration systems of the First Nation and recommend improvements;

j. to develop and recommend procedures for the safeguarding of assets and ensure approved procedures are followed; and

k. to develop and recommend procedures for identifying and mitigating financial reporting risks and risk of fraud and to ensure approved procedures are followed.

11.2.4 Permitted functions – A *FAL* may permit the chief administrative officer to require the director of finance to carry out other activities if they are not contrary to the Act or inconsistent with the director of finance's duties set out in the *FAL.*

11.2.5 Permitted assignment – A *FAL* may permit the director of finance to require an officer, employee, contractor or agent of the First Nation to perform any of the director of finance's duties or functions but this assignment of duties or functions must not relieve the director of finance of the responsibility to ensure that these duties or functions are carried out properly.

11.3 Tax administrator

11.3.1 Appointment – If the First Nation is collecting local revenues, a *FAL* or a local revenue law provides for the appointment and sets out the principal powers, duties and functions of the tax administrator.

11.3.2 Reporting relationship – A *FAL* requires the tax administrator - in the performance of the tax administrator's duties under the First Nation's local revenue laws, the Act and the *FAL* - to report directly to one of the following: the director of finance, the chief administrative officer or the council.

11.3.3 Required functions – A *FAL* requires the tax administrator to carry out the following functions:

a. to manage the local revenues and local revenue account on a day-to-day basis;

b. to recommend to the director of finance the draft and amended annual budget for the local revenues component of the annual budget;

c. to recommend to the director of finance the local revenues components of the multi-year financial plan;

d. on request, to provide advice to the chief administrative officer, director of finance, finance and audit committee and the council respecting local revenues matters; and

e. to monitor compliance with the Act, the First Nation's local revenue laws and the *FAL* in the administration of local revenues and the local revenue account.

11.3.4 Permitted assignment – A *FAL* may permit the tax administrator to require an officer, employee, contractor or agent of the first nation to perform any of the tax administrator's additional duties or functions set out in the *FAL* but this assignment of duties or functions must not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

11.4 Human resources

11.4.1 Approved functions – A *FAL* requires the principal powers, duties and functions of all other employees of the First Nation, including those who report directly or indirectly to the tax administrator, to be set out in writing and approved by the council of the First Nation or the chief administrative officer.

11.4.2 Organization chart – A *FAL* requires the preparation and maintenance of a current organization chart which includes the following information:

a. all governance, management and administrative systems of the First Nation, their organization and linkages;

b. the specific roles and responsibilities of each level of the organization of these systems; and

c. all governance, management and administrative positions at each level of the organization of these systems including

   i. the council, finance and audit committee and all other committees of the council or First Nation and the officers and employees of the first nation, and

   ii. the principal lines of authority and responsibility between the council, the committees, officers and employees.

11.4.3 Chart access – A *FAL* requires access to the organization chart to be provided to all persons affected by it including councillors, committee members, officers, employees, contractors and agents of the First Nation and First Nation ~~members~~ citizens.

11.4.4 HR policies/practices – A *FAL* requires the First Nation's human resource policies and practices to be designed and implemented to facilitate effective internal financial administration controls.

11.4.5 Personnel competence – A *FAL* requires the First Nation to hire or retain qualified and competent personnel to carry out the financial administration activities of the First Nation.

12.0 CONDUCT

12.1 Council mandates – A *FAL* requires a councillor, when exercising a power, duty or responsibility relating to the financial administration of the First Nation,

a. to act honestly, in good faith and in the best interests of the First Nation,

b. to exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances,

c. to act in accordance with the *FAL*, any other applicable First Nation law, the Act, its regulations and any applicable standards made under the Act, and

d. to avoid conflicts of interests and to comply with provisions in the *FAL* or in the policies and procedures of the First Nation for the avoidance and mitigation of those conflicts.

12.2 Employees, etc. mandates – A *FAL* requires the officers, employees, committee members, contractors and agents, when exercising a power, duty or responsibility relating to the financial administration of the First Nation,

a. to act in accordance with the *FAL*, any other applicable First Nation law, the Act, its regulations and any applicable standards made under the Act,

b. to comply with all policies and procedures of the First Nation, and

c. to avoid conflicts of interests and comply with provisions in the *FAL* or in the policies and procedures of the First Nation for the avoidance and mitigation of those conflicts.

12.3 Conflict of interest disclosures – A *FAL* requires

a. councillors to annually disclose relevant information respecting their private interests which could result in a conflict of interest, and

b. councillors, officers, employees, committee members, contractors and agents to disclose as soon as practicable any circumstances which could result in an actual or potential conflict of interest.

12.4 Conflict of interest provisions – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, the avoidance and mitigation of conflicts of interest including the following:

a. defining the private interests of councillors, officers, employees, committee members, contractors and agents that could result in a conflict of interest;

b. requiring the keeping of records of all conflict of interest disclosures made by any person referred to in paragraph a.;

c. specifying restrictions on the acceptance of gifts and benefits by any person referred to in paragraph a. that might reasonable be seen to have been offered in order to influence the making of a decision by that person;

d. prohibiting any person referred to in paragraph a. who has a conflict of interest from attempting to influence a decision or from participating in the making of a decision respecting the matter in which the person has a conflict of interest; and

e. specifying how any undisclosed or any alleged but not admitted conflicts of interest of councillors are to be addressed.

12.5 Conduct obligation inclusions – A *FAL* requires the obligations respecting conduct required under standard 12.2 to be included in the terms of any applicable employment contracts, appointments to the finance and audit committee, contracts for service and appointments of agents.

12.6 Enforcement – A *FAL* states the actions which may be taken if a councillor, officer, employee, committee member, contractor or agent fails to comply with

a. applicable conduct obligations set out in the *FAL,* and

b. applicable policy and procedural requirements of the First Nation respecting the avoidance and mitigation of conflicts of interests.

12.7 Conduct declarations – a *FAL* requires

a. every councillor, officer, employee, committee member, contractor and agent when engaged in a duty or responsibility relating to the First Nation's financial management system to sign a declaration indicating that they understand and agree to comply with the applicable conduct expectations as set out in the *FAL* or in First Nation policies and procedures, and

b. councillors, officers, employees, committee members, contractors and agents when engaged in a duty or responsibility relating to the First Nation's financial management system to sign the declaration referred to in paragraph (a) both upon hiring, appointment or retention, as the case may be, and annually after that.

PART THREE – FINANCIAL MANAGEMENT

13.0 FISCAL YEAR

13.1 Defined fiscal year – A *FAL* establishes the fiscal year of the First Nation as the period beginning on April 1st of one year and ending on March 31st in the next year.

14.0 STRATEGIC PLAN

14.1 Preparation - A *FAL* requires the preparation of a strategic plan for the First Nation for purposes of informing financial and community decision-making.

14.2 Content – The strategic plan referred to in standard 14.1 sets out the long-term vision for the First Nation and its ~~members~~ citizens.

14.3 Periodic review - A *FAL* requires the strategic plan referred to in standard 14.1 to be reviewed on a regular, periodic basis and revised as necessary.

15.0 MULTI-YEAR FINANCIAL PLAN

15.1 Preparation – A *FAL* requires the annual preparation of a multi-year financial plan for the First Nation for the purpose of informing financial decision-making in a manner that is consistent with and supports the objectives of the First Nation strategic plan referred to in standard 14.1.

15.2 Content – The multi-year financial plan referred to in standard 15.1 includes the current year and the next four years and includes the following for each year:

a. projected revenues, segregated by significant category;

b. projected expenditures, segregated by significant category; and

c. any anticipated surplus or authorized deficit.

16.0 BUDGETS

16.1 Budget preparation – A *FAL* requires the preparation of an annual budget for all financial matters of the First Nation for the next fiscal year.

16.2 Management of deficits – A *FAL* includes provisions respecting the management of and any limitations on budget deficits.

16.3 Budget for local revenue account – A *FAL* requires the preparation, approval and amendment of the component of the annual budget respecting the First Nation's local revenues to comply with the Act, its regulations and the standards established by the First Nations Tax Commission.

16.4 Budget contents - A *FAL* requires the First Nation annual budget

a. to encompass all the operations for which the First Nation is responsible,

b. to identify each anticipated significant category of revenue and estimate the amount of revenue for each category,

c. to identify each anticipated significant category of expenditure and estimate the amount of expenditure for each category, and

d. to identify any anticipated surplus or authorized deficit and the application of year end surplus funds.

16.5 Budget process

16.5.1 Approval of annual budget – A *FAL* requires the council to approve the First Nation annual budget no later than March 31 for the next fiscal year.

16.5.2 Amendment of final budget – A *FAL* requires the council to approve any amendments of the component of the annual budget respecting the First Nation's local

revenues within the time required in section 10 of the Act and, in any event, as soon as practicable after the start of the fiscal year.

16.5.3 Council approval of amended budget – A *FAL* requires the council to approve any change to the First Nation annual budget.

17.0 FIRST NATION ~~MEMBERSHIP~~ CITIZEN INFORMATION/INVOLVEMENT

17.1 Required policies and procedures – A *FAL* includes provisions respecting, or requires the council to make policies and procedures respecting, the means by which ~~members~~ citizens of the First Nation will be involved in or informed about

a. the First Nation strategic plan referred to in standard 14.0,

b. the First Nation multi-year financial plan referred to in standard 15.0,

c. the First Nation annual budget referred to in standard 16.0 including any anticipated budget deficits, and

d. extraordinary expenditures.

18.0 FINANCIAL MANAGEMENT AND CONTROLS

18.1 Funds and revenues

18.1.1 Fund and revenue controls – A *FAL* establishes, or requires the council to make policies and procedures respecting, the means for effectively managing and controlling all First Nation funds and revenues, including internal controls for financial institution accounts and asset management.

18.1.2 Separate local revenue account – A *FAL* requires the First Nation to place all local revenues in a separate local revenue account in a financial institution as required by section 13 of the Act.

18.1.3 Cash management – A *FAL* establishes provisions respecting, or requires the council to make policies and procedures respecting, effective cash management.

18.2 Expenditures

18.2.1 Expenditure controls – A *FAL* establishes, or requires the council to make policies and procedures respecting, the means for managing effectively all First Nation expenditures, including internal controls respecting financial institution accounts and the procurement of goods and services.

18.2.2 Local revenues expenditures – A *FAL* requires expenditures of local revenues only to be made if and as permitted under a law made under paragraph 5(1)(b) of the Act or as permitted in section 13.1 of the Act.

18.2.3 Appropriations for expenditures – A *FAL* requires expenditures of First Nation funds only to be made if and as permitted under the First Nation annual budget in effect at the

time of the expenditure, with such reasonable exceptions to address unforeseen events for which the *FAL* provides or for which a council policy or procedure established under authority of the *FAL* provides.

18.3 Borrowing

18.3.1 Debt provisions – A *FAL* includes provisions respecting, or requires the council to make policies and procedures respecting, the incurring of debt by the First Nation, debt management and use of borrowed funds.

18.3.2 Granting of security – A *FAL* includes provisions respecting, or requires the council to make policies and procedures respecting, the granting of security by the First Nation.

19.0 RISK MANAGEMENT

19.1 Risk management of for-profit activities – A *FAL* includes provisions that, or requires the council to establish policies and procedures that, limit or manage the risks associated with a First Nation carrying on for-profit activities.

19.2 Guarantees and indemnities – A *FAL* includes provisions respecting the granting of First Nation guarantees and indemnities, including any limits on amounts and any approvals required.

19.3 Investments

19.3.1 Investment management strategy – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, an effective investment management strategy for First Nation funds.

19.3.2 Restricted investments – A *FAL* specifies that ~~First Nation government transfer funds and~~ local revenues may only be invested in investments specified in paragraph 82(3)(a), (b), (c) or (d) of the Act and in investments in securities issued by the First Nations Finance Authority or a municipal finance authority established by a province.

19.3.3 Identification of financial institutions – A *FAL* includes provisions identifying, or requires the council to establish policies and procedures identifying, the financial institutions or types of financial institutions in which the First Nation may invest funds.

19.3.4 Required policies and procedures - A *FAL* includes provisions respecting or requires the council to establish policies and procedures respecting, the involving or informing of First Nation citizens in the establishment of a trust or other long term investment instrument and the permitted uses of funds contained therein.

19.4 Lending

19.4.1 Lending and collection – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, effective management of the lending of First Nation funds and the collecting of funds loaned.

19.4.2 Permitted lending to First Nation ~~members~~ citizens – A *FAL* may permit the establishment of a program for the lending of First Nation funds to First Nation ~~members~~ citizens if the program

a. provides for universal accessibility,

b. has published terms and conditions, and

c. is transparent.

19.5 Insurance

19.5.1 Required insurance – A *FAL* includes provisions respecting requirements for liability, property and other insurance of the First Nation, including insurance respecting assets under the First Nation's care or control.

19.5.2 Permitted insurance – A *FAL* may include provisions respecting liability insurance obtained for the benefit of councillors, officers or employees of the First Nation.

19.6 Operations and information technology

19.6.1 Required operations controls - A *FAL* contains provisions respecting, or requires the council to establish policies and procedures 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.

19.6.2 Required information technology controls – A *FAL* contains provisions respecting, or requires the council to establish policies and procedures respecting, internal controls for information technology used by the First Nation in its operations in order to ensure the integrity of the financial administration system, its records and data.

19.7 Risk of fraud - A *FAL* contains provisions respecting, or requires the council to establish policies and procedures respecting a fraud risk management program which demonstrates the expectations of council and the commitment to integrity and ethical values regarding fraud risk ~~the identification and assessment of the risk of fraud to the First Nation.~~.

19.8 Emergencies – A *FAL* contains provisions respecting or requiring the council to establish policies and procedures respecting the development and maintenance of emergency, contingency, and recovery plans to ensure the operational continuity of the financial management system.

20.0 FINANCIAL REPORTING

20.1 Controls for reliable reporting – A *FAL* contains provisions respecting, or requires the council to establish policies and procedures respecting, the establishment and implementation of an

effective system of internal controls that ensures the reliable reporting of the First Nation's financial results.

20.2 Separate accounting

20.2.1 Local revenues – A *FAL* requires local revenues of the First Nation to be accounted for separately from its other moneys in accordance with the requirements of the FMB's *Local Revenue Financial Reporting Standards.*

20.2.2 Other revenues – A *FAL* requires all other revenues of the First Nation to be accounted for separately from its other moneys if the First Nation has a loan from the First Nations Finance Authority secured by other revenues.

20.2.3 Other revenue account information – A *FAL* requires a First Nation referred to in standard 20.2.2 to provide accounting information about its other revenues to the First Nations Finance Authority and to the FMB on request.

20.3 Monthly reporting – A *FAL* provides for the preparation of monthly financial information respecting the financial affairs of the First Nation and for the provision of the information to one or more of the following: the council, the finance and audit committee or the chief administrative officer.

20.4 Quarterly reporting – A *FAL* provides for the preparation of quarterly financial statements respecting the financial affairs of the First Nation and for their provision to the council and the finance and audit committee.

20.5 Annual reporting

20.5.1 Preparation – A *FAL* provides for the preparation of annual financial statements respecting the financial affairs of the First Nation and for their provision to the council and the finance and audit committee.

20.5.2 GAAP requirement – A *FAL* requires annual financial statements of the First Nation to be prepared in accordance with GAAP.

20.5.3 Local revenues financial report - A *FAL* requires the financial report of local revenues of the First Nation – whether reported as a distinct segment in the audited annual financial statements of the First Nation or as separate annual financial statements - to be prepared at least once each calendar year in accordance with the FMB's *Local Revenue Financial Reporting Standards.*

20.6 Special purpose reports

20.6.1 Permitted special purpose reports – A *FAL* may require the director of finance to prepare and the auditor to report on any special purpose reports required by an agreement or a law.

20.6.2 Required special purpose reports – A *FAL* requires the director of finance to prepare and the auditor to report on the following special purpose reports for each fiscal year:

a. the report referred to in standard 9.0;

b. a report setting out all payments made by the First Nation to honour guarantees and indemnities; and

c. a report setting out all debts and obligations forgiven by the First Nation during the fiscal year.

20.6.3 Special accounting framework – A *FAL* may permit the preparation of a special purpose report on a basis of accounting other than GAAP.

21.0 AUDITS

21.1 Interpretation – In standard 21.0, a reference to annual financial statements includes a reference to annual financial statements respecting local revenues - unless otherwise stated.

21.2 Application – This standard 21.0 applies to the audit of the annual financial statements of the First Nation.

21.3 Audit standards – A *FAL* requires the annual financial statements to be audited in accordance with Canadian generally accepted auditing standards.

21.4 Auditor

21.4.1 Appointment – A *FAL* provides for the appointment and dismissal of the first nation's auditor.

21.4.2 Qualifications – A *FAL* requires the auditor

a. to be independent of the First Nation, and

b. to be a public accounting firm or public accountant

i. in good standing with the Chartered Professional Accountants of Canada and its respective counterpart 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.

21.4.3 Engagement letter – A *FAL* requires the auditor's engagement letter to include the content required by Canadian generally accepted auditing standards.

21.4.4 Duties – A *FAL* requires the auditor to provide

a. an audit report on the annual financial statements of the First Nation referred to in standard 20.5, and

b. an audit report or a review engagement report on the special purpose reports referred to in standard 20.6.

21.4.5 Auditor authority – A *FAL* gives the auditor the authority necessary to enable the auditor to carry out its audit responsibilities, including the following:

a. to have access to all records, including all books, accounts and vouchers, council minutes, council resolutions, First Nation laws and agreements to which the First nation is a party, and to question persons respecting any such information;

~~b. to receive notices of all finance and audit committee meetings and, at the auditor's discretion, to attend and be heard at those meetings;~~

c. to communicate to the council and the finance and audit committee, as the auditor considers appropriate, any matters which the council and/or finance and audit committee should consider; and

~~d. with reasonable exceptions (such as a meeting called to consider the retention or dismissal of an auditor), to attend the council meeting where the annual audit, including the annual financial statements, will be considered and approved and to receive notice of that meeting;~~

e. to be heard at any council and First Nation ~~members~~ citizens meeting that the auditor has the right to attend or to which the auditor has been invited and that raises issues of concern to the auditor as auditor of the First Nation.

21.5 Audit completion date – A *FAL* requires the audit of the annual financial statements, other than those prepared for local revenues, to be completed ~~not more than one hundred twenty (120) days after the end of the fiscal year~~ by July 29 following the fiscal year-end.

22.0 APPROVAL/ACCESS TO AUDITED STATEMENTS

22.1 Review and approval – A *FAL* requires the council to review and approve the First Nation's audited annual financial statements, other than those prepared for local revenues, ~~not more than one hundred twenty (120) days after the end of the fiscal year~~ by July 29 following the fiscal year-end.

22.2 Signatories – A *FAL* requires the First Nation's statement of financial position of the audited annual financial statements and/or the "Management's Responsibility for Financial Reporting" letter attached to the audited annual financial statements to be signed by

a. the chief of the First Nation or the council chairperson,

b. the chairperson of the finance and audit committee, and

c. the director of finance.

22.3 Access to audited statements/report

22.3.1 First Nation ~~member~~ citizen access – A *FAL* requires ~~members~~ citizens of the First Nation to be given access to the First Nation's audited annual financial statements and special purpose reports.

22.3.2 Access to audited local revenues report – A *FAL* requires the First Nation's audited financial report of local revenues, if any, to be made available to persons referred to in subsection 14(2) of the Act.

23.0 ANNUAL REPORT

23.1 Annual report – A *FAL* requires the First Nation to prepare and publish an annual report on the operations and financial performance of the First Nation for each fiscal year.

23.2 Publication date – A *FAL* requires the annual report of the First Nation to be published not later than ~~one hundred eighty (180) days after the end of the fiscal year~~ September 30 following the fiscal year-end.

23.3 Content of report – A *FAL* requires the annual report of the First Nation

a. to include

i. a description of the services and operations of the First Nation, and

ii. a progress report on any established objectives and performance measures of the First Nation, and

b. to include or to incorporate by reference

i. all audited annual financial statements of the First Nation for the previous fiscal year, and

ii. the special purpose reports referred to in standard 20.6.

23.4 Provision of report – A *FAL* requires the annual report of the First Nation to be provided

a. to First Nation ~~members~~ citizens on request, and

b. to the First Nations Finance Authority if the First Nation is a borrowing member.

23.5 Remedy for non-compliance – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, an accessible process and remedy available to First Nation ~~members~~ citizens who have requested but have not been provided with

a. the annual report of the First Nation, or

b. access to the audited annual financial statements and special purpose reports incorporated by reference in the annual report.

24.0 RECORDS AND INFORMATION

24.1 Ownership of records – A *FAL* includes provisions, or requires the council to establish policies and procedures, to ensure that the records of the First Nation, however produced, used or received remain the property of the First Nation.

24.2 Record keeping, storage, etc. – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, the preparation, maintenance, security, storage, access to and disposal of records of the First Nation.

24.3 Requirements for confidentiality, etc. – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, the confidentiality, control and release of First Nation information that is in the possession of the First Nation, the council, councillors, committee members, employees, contractors or agents of the First Nation.

24.4 Local revenue account records – A *FAL* requires 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 *Revenue Management Implementation Regulations*, to be kept by the director of finance or the tax administrator.

24.5 Other revenues account records – If the First Nation has a loan from the First Nations Finance Authority that is secured by other revenues, a *FAL* requires a complete set of all records respecting other revenues of the First Nation, including all records referred to in section 5 of the *Revenue Management Implementation Regulations* as amended by the *Financing Secured by Other Revenues Regulations,* to be kept by the director of finance.

PART FOUR – TANGIBLE CAPITAL ASSETS

25.0 TANGIBLE CAPITAL ASSETS MANAGEMENT

25.1 Definition – In Part Four:

"**First Nation tangible capital assets**" means 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 an accounting period,

c. are to be used on a continuing basis, and

d. are not for sale in the ordinary course of operations;

"life-cycle management program" means a program of inspection, planning, maintenance, replacement and oversight of First Nation tangible capital assets; and

"tangible capital asset project" means the acquisition, construction, rehabilitation, repair or replacement of a First Nation tangible capital asset but does not include routine maintenance.

25.2 Council obligations – A *FAL* includes provisions to ensure that First Nation tangible capital assets are

a. recorded in an assets register,

b. adequately safeguarded,

c. maintained in accordance with a life-cycle management program as described in Part Four, and

d. planned, financed, managed and constructed to acceptable community standards.

25.3 Tangible capital asset reserve fund – A *FAL* requires the council to invest in and manage a First Nation tangible capital asset reserve fund to be applied for the purposes set out in Part Four.

26.0 LIFE-CYCLE MANAGEMENT PROGRAM

26.1 Life-cycle management program – A *FAL* requires documented life-cycle inspection, planning and oversight of First Nation tangible capital assets and tangible capital asset projects.

26.2 Contents of program – The life-cycle management program referred to in standard 26.1 must include the following:

a. the development, maintenance and updating of a register for First Nation tangible capital assets;

b. the regular, periodic inspection of First Nation tangible capital assets;

c. for routine maintenance of First Nation tangible capital assets, preparation of the following:

   i. a plan for annual scheduling of required maintenance for the next fiscal year;

   ii. short and long term forecasting of estimated costs; and

   iii. a budget for required maintenance for the next fiscal year;

d. for tangible capital asset projects, preparation of the following:

   i. a plan for annual scheduling of projects for the next fiscal year;

   ii. short and long term forecasting of estimated costs of projects; and

   iii. a budget for projects for the next fiscal year; and

e. the annual review by the finance and audit committee of the proposed scheduling and budgets for routine maintenance and tangible capital asset projects.

26.3 Required policies and procedures - A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting

a. a life-cycle management program for First Nation tangible capital assets, and

b. tangible capital asset projects.

27.0 CONTRACTS AND TENDERING

27.1 Required policies and procedures – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting the procurement, contract and risk management and administration of tangible capital asset projects.

28.0 FIRST NATION ~~MEMBERS~~ CITIZEN INFORMATION OR INVOLVEMENT

28.1 Required policies and procedures - A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, the involving or informing of First Nation ~~members~~ citizens in tangible capital asset projects and borrowing for those projects.

PART FIVE – MISCELLANEOUS

29.0 FMB STANDARDS

29.1 Compliance with FMB standards – If the First Nation is a borrowing member or has a certificate issued by the FMB under the Act, a *FAL* requires the First Nation to remain in compliance with all applicable FMB standards.

29.2 Council obligation where non-compliant – A *FAL* of a First Nation referred to in standard 29.1 requires that, on the council becoming aware that the First Nation is not operating in compliance with a FMB standard referred to in standard 29.1, the council must, without delay, take such measures as are required for the First Nation to rectify any such non-compliance and to operate in compliance with the standard.

30.0 DELEGATED AUTHORITY FOR LOCAL REVENUES

30.1 Application – This standard 30.0 applies to a First Nation only if it is

a. making local revenue laws under subsection 5(1) of the Act, or

b. using its local revenues to secure a loan from the First Nations Finance Authority.

30.2 Local revenues notice – A *FAL* provides, without limiting section 53 of the Act, that if the FMB gives notice to the First Nation under section 53 of the Act that third-party management of the First Nation's local revenues is required, the council of the First Nation delegates to the FMB

a. the powers and authorities described in subsection 53(2) of the Act, and

b. any other of the council's powers required to give effect to third-party management of the First Nation's local revenues under the Act.

31.0 DELEGATED AUTHORITY FOR OTHER REVENUES

31.1 Application – This standard 31.0 applies to a First Nation only if it is using its other revenues to secure a loan from the First Nations Finance Authority.

31.2 Other revenues notice – A *FAL* provides, without limiting section 53 of the Act as adapted by the Financing Secured by Other Revenues Regulations, that if the FMB gives notice to the First Nation under section 53 of the Act that third-party management of the First Nation's other revenues is required, the council of the First Nation delegates to the FMB s

a. the powers and authorities described in subsection 53(2) of the Act as adapted by the Financing Secured by Other Revenues Regulations, and

b. any other of the council's powers required to give effect to third-party management of the First Nation's other revenues under the Act.

32.0 FINANCIAL MISCONDUCT

32.1 Reporting misconduct – A *FAL* establishes the means by which a person may report any alleged misappropriation or irregularity in the financial administration of the First Nation and how these reports must be considered.

32.2 Obligation to report – A *FAL* requires

a. councillors, officers and employees, and

b. contractors and agents engaged in financial administration activities

to report any circumstances referred to in standard 32.1.

32.3 Protection for whistleblowers – A *FAL* includes provisions protecting a person from reprisals for reporting any circumstances referred to in standard 32.1.

32.4 Procedural requirements – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, the reporting of circumstances referred to in standard 31.1, the conduct of inquiries or investigations into these reports and the fair treatment of persons against whom reports have been made.

32.5 Enforcement – A *FAL* requires compliance with the *FAL* and provides the means to enforce compliance.

32.6 Recovery of moneys – A *FAL* provides for the recovery of amounts expended or forfeited due to the failure of a person to comply with the requirements of the *FAL*.

33.0 FREE, PRIOR, AND INFORMED CONSENT

33.1 Required policies and procedures – A *FAL* includes provisions respecting, or requires the council to make policies and procedures respecting, the means by which First Nation citizens will be involved in or informed about all relevant information about major projects, or other projects that may materially affect the First Nation's financial interests before the First Nation makes a decision in relation to the project.

34.0 *FAL* REVIEW

34.1 Periodic review – A *FAL* provides for periodic review of the *FAL*, including

a. the assessment of its effectiveness in establishing sound financial administration for the First Nation, and

b. the identification of any changes to the *FAL* that may better serve that objective.

34.2 First Nation ~~members~~ citizens information or involvement – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, the means by which First Nation ~~members~~ citizens will be informed about or involved in the approval of the repeal of the *FAL* or any proposed amendments to the *FAL*.

35.0 COMING INTO FORCE

35.1 Permitted day of coming into force – A *FAL* ~~may~~ must set out the day or days on which provisions of the *FAL* comes into force.

35.2 Limitations on day of coming into force – A *FAL* may not come into force any earlier than the day after the *FAL* is given compliance approval by the FMB under section 9 of the Act.



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