

# **NISICHAWAYASI NEHETHOWUK LAWS**

**2018**

**LAW 2018-2**

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A Law to repeal Bylaw \_\_\_\_ and enact an NCN Finance Law 2018, c. F-1

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Proposal Date: February 7, 2018

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## **SUMMARY**

This law repeals NCN Financial Administration Bylaw enacted in 1971 under the Indian Act and replaces it with an NCN Finance Law enacted in accordance with *Othasowewin*, 2017, c. O-1.



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## **NCN Finance Law 2018, Chapter F-1**

This Law in accordance with *Othasowewin* 2017, c. O-1, by and with the advice of the citizens of the Nisichawayasihk Cree Nation is enacted as follows:

### **Title**

1. This law may be cited as the *Nisichawayasi* Finance Law, 2018, c. F-1.

## **PART I**

### **INTERPRETATION AND APPLICATION**

#### **Definitions**

2. In this Finance Law,

“Advance” means a sum of money advanced to an NCN agency or NCN Citizen in an emergency situation that is to be repaid without interest.

“NCN Entities” means any board, commission, association, agency, limited partnership, or similar body, whether incorporated or unincorporated, all the members of which, or all the members of the governing board or management are appointed by Chief and Council directly or where Chief and Council has authorized their appointment by election.

“Appropriation” means authority under this law or any other NCN Law to pay money out of the NCN Consolidated Fund or to incur an expenditure.

“Chief Executive Officer” or “CEO” means the person appointed by council resolution to hold the principal, non-political operations management position for the Nisichawayasihk Cree Nation.

“Chief Financial Officer” means the person holding the designation of chartered professional accountant, appointed by Council Resolution to hold the principal, non-political financial management position for the Nisichawayasihk Cree Nation.

“Calendar Year” means an NCN entity’s financial year from January 1<sup>st</sup> to December 31<sup>st</sup>.

“Capital Expenditure” includes minor capital expenditures to maintain or upgrade an existing asset and major capital expenditures to acquire new assets or replace a major component of an existing capital asset.

“Chief and Council” means the elected governing body of the Nisichawayasihk Cree Nation.

“Council Resolution” means a resolution passed at a duly convened meeting of Chief and Council.

“Department” means a branch of the *Nisichawayasi Nehethowuk Okemawin*.

“Executive Management Team” means the Chief Executive Officer, Chief Financial Officer, and the executive directors of human resources, operations and, intergovernmental relations and special projects.

“Expenditure” means an operating expense or Capital expenditure in a Fiscal Year.

“Financial Advisor” means a person appointed by Chief and Council to provide financial advice to Chief and Council, members of the Executive Management Team, the Senior Management Team or NCN Entities about potential investment opportunities, how to manage NCN assets and Investments, and financial decision-making to achieve short and long term financial goals.

“Finance Portfolio Holder” means the member of Chief and Council appointed to oversee the finance portfolio and who shall have or obtain an understanding of financial administrative management. “Fund Accounting” means an accounting system for recording monetary resources whose use has been limited by the donor, granting authority, government, agency, or other individuals or organizations or by law.

“Fiscal Year” means the period beginning on April 1 of one year and ending on March 31 of the following year or in the case of a trust, from January 1 to December 31.

“GAAP” means relevant generally accepted accounting principles.

“Investments” means bonds, debentures, promissory notes, treasury bills, commercial paper, real property or any other types of Investments.

“Loans” means a sum of money that is to be repaid with interest within a certain period of time.

“NCN” or “the Nation” means the Nisichawayasihk Cree Nation.

“NCN Law” means a law of the Nisichawayasihk Cree Nation in force at the time *Othasowewin* came into effect on April 16, 2018 or a law which is subsequently enacted by Chief and Council in accordance with section 7 of *Aski Pumenikewin* or chapter 14 of *Othasowewin*.

“Operating Expense” means an amount that is recorded as an operating expense of *Nisichawayasi Nehethowuk Okemawin* in accordance with applicable accounting policies.

“Revenue” means the revenue identified in the Nation’s accounts as having been earned or received in a Fiscal Year in accordance with the accounting policies of *Nisichawayasi Nehethowuk Okemawin*.

“Senior Management Team” means managers employed by *Nisichawayasi Nehetho Okemawin* including managers employed by NCN Entities and the Executive Management Team.

“Treasury Board” means the committee of Chief and Council appointed in accordance with section 5 of this law.

“Trust Money” means money held in trust by Chief and Council on behalf of NCN or by trustees appointed by Chief and Council for a specific purpose, for investment or as a deposit to ensure the undertaking of a particular action.

### **Scope and Application**

3. This law applies to the financial administration of the Nation and if there is a conflict between this law and any other NCN Law or policy, this law prevails unless the other law contains a provision that it applies notwithstanding this law.

### **Council Responsibilities**

4. Chief and Council is responsible for all matters relating to the financial management and administration of the Nation whether such matters have been assigned or delegated to an officer, employee, committee, contractor, director or agent by *Othasowewin*, this law and any other law, and without limiting the generality of the foregoing must

- (a) establish written policies and procedures and give written directives regarding the acquisition, management and safeguarding the Nation's assets that are consistent with this law and GAAP for all NCN operations except where Chief and Council determines fund accounting is applicable;
- (b) delegate authority to NCN Entities, members of the Executive Management Team or the Senior Management Team, or financial advisors in writing outlining the scope of the authority and any relevant conditions that must be followed in the exercise of that authority in accordance with this law or any other law;
- (c) require members of Chief and Council to annually disclose in writing any potential conflicts of interest related to their personal interests, provide updates within fourteen (14) days of any changes from the date of the last annual disclosure and maintain records of disclosures about actual or potential conflicts of interest as they arise;
- (d) approve the execution of all agreements entered into on behalf of the Nation or delegate such authority to the Chief Executive Officer, the Chief Financial Officer, a person designated by the Chief Executive Officer or the Chief Financial Officer, or a financial advisor in accordance with *Othasowewin*, an NCN Law or an NCN order-in-council;
- (e) approve the Nation's annual budget and any amendments to the approved budget;
- (f) ensure that all travel expenditures are approved by Treasury Board and Chief and Council prior to being incurred if the travel expenditure is in excess of the annual budget Appropriation approved by Chief and Council;
- (g) disclose actual travel expenditures publicly at least quarterly on NCN's website;
- (h) appoint Treasury Board members, auditors, financial advisors, legal counsel, trustees and other personnel required to assist in maintaining the financial integrity of the Nation;



- (i) approve all Treasury Board minutes, decisions and recommendations prior to their implementation unless an emergency situation requires the Chief or Deputy Chief to authorize the immediate implementation of the Treasury Board decision or recommendation; and
- (j) make regulations to facilitate the financial management and administration of the Nation.

## **PART II**

### **TREASURY BOARD**

#### **Treasury Board**

5. Chief and Council shall appoint the Chief or Deputy Chief as the finance portfolio holder and two other members of Chief and Council to serve on the Treasury Board.

#### **Chairperson and vice-chairperson**

6. Chief and Council shall appoint the Finance Portfolio Holder as the chairperson to preside at meetings of Treasury Board and a second member of Chief and Council as vice-chairperson to assume the duties in the absence of the chairperson.

#### **Secretary to Treasury Board**

7. The executive assistant to Chief and Council shall serve as the secretary to Treasury Board to perform the duties and functions that are assigned to the executive assistant by Treasury Board.

#### **Rules of procedure**

8. The Treasury Board may determine its own rules and procedures and issue directives it considers necessary in relation to any government Department or NCN Entity to discharge its responsibilities under this Law or any other NCN Law.

## **Treasury Board subject to Council direction**

**9.** Treasury Board in the exercise of its responsibilities and powers under this or any other NCN Law is subject to any directions given to it by Chief and Council.

## **Authority of Treasury Board**

**10.** In addition to matters assigned to it under this Law or any other NCN Law, Treasury Board is responsible for

- (a) reviewing draft annual budgets, including any proposed salary increases to be included in the annual budget, deficits, and making recommendations to Chief and Council for approval;
- (b) reviewing financial plans and projections received from NCN Entities Departments and NCN Entities;
- (c) government wide management practices and systems;
- (d) fiscal management and control including the management and control of expenditures and Revenues;
- (e) recommending the organization of government Departments and NCN Entities NCN Entities and staffing complements and spending levels required to deliver government programs;
- (f) ensuring accountability of government Departments and NCN Entities for the delivery of government programs;
- (g) reviewing quarterly cash flows for each Department and NCN Entity recommending any required budget adjustments to Chief and Council for approval and the issuance of directives to the Department or NCN Entity;
- (h) reviewing and making recommendations to Chief and Council on the planning, conduct and results of audit activities;

- (i) monitoring the adequacy of financial information, information systems, risk management policies and suspicious activity and recommending mitigation measures to Chief and Council;
- (j) reviewing and making recommendations to Chief and Council about any proposed significant changes to the Nation's accounting or financial reporting systems, policies, procedures and directives; and
- (k) other matters assigned to it by Council Resolution.

### **PART III**

#### **FINANCE PORTFOLIO HOLDER**

##### **Duties and Responsibilities**

**11 (1)** The Finance Portfolio Holder is responsible for overseeing

- (a) the management and administration of the finance Department;
- (b) the management of the Nation's debt, recommendations regarding investment of the Nation's Revenues, Loans, Advances and guarantees given by Chief and Council on behalf of the Nation; and
- (c) control over and direction of all matters relating to the financial management of *Nisichawayasi Nehethowuk Okemawin* that are assigned to the Finance Portfolio Holder by Chief and Council or an NCN Law.

##### **Delegation of Authority**

**11 (2)** The Finance Portfolio Holder may authorize the Chief or a Councillor, the Chief Financial Officer, another member of the Executive Management Team, a financial advisor or a person designated by the Chief Financial Officer to undertake any of the responsibilities in subsection (1), and any action taken under such an authorization has the same effect as if the action was undertaken by the Finance Portfolio Holder.

## PART IV

### CHIEF FINANCIAL OFFICER

#### Duties and responsibilities

**12 (1)** In addition to any other duties assigned by Chief and Council, the Chief Finance Officer is responsible for

- (a) maintaining the central accounts of *Nisichawayasi Nehethowuk Okemawin* to show the current state of the Nation's finances;
- (b) ensuring procedures are in place for the recording of moneys payable to and payable by NCN;
- (c) obtaining, reviewing and making recommendations to Treasury Board and Chief and Council regarding the financial plans and projections received from NCN Entities Departments and NCN Entities;
- (d) assessing the cash flow position for each Department and NCN Entities recommending any budgetary adjustments to Treasury Board and Chief and Council;
- (e) preparing the public accounts, financial statements and quarterly reports required by Treasury Board or Chief and Council, including future projections and forecasts;
- (f) ensuring sound accounting, financial management and internal control systems are maintained throughout Departments and NCN Entities;
- (g) ensuring all draft budgets and any budget amendments are prepared by Departments and NCN Entities for timely review by Treasury Board and Chief and Council and taking corrective action where necessary;
- (h) authorizing transfer payments and other expenditures in a timely manner in accordance with agreements, authorizations, and policies;
- (i) monitoring compliance with agreements and funding arrangements entered into by the Nation;

- (j) monitor compliance with this law, any other applicable NCN Law, policies and directives issued by Treasury Board or Chief and Council;
- (k) developing and recommending procedures for safeguarding assets and ensuring procedures are followed; and
- (l) ensuring audits are planned and conducted in a timely manner.

### **Delegation of responsibilities**

**12 (2)** The Chief Financial Officer shall have the authority to assign the performance of any of the duties or responsibilities in subsection (1) to any member of the Executive Management Team or a financial advisor, but such assignment shall not relieve the Chief Financial Officer of the responsibility for ensuring such duties and responsibilities are carried out in a professional and timely manner.

### **Powers of Chief Financial Officer**

**12(3)** The Chief Financial Officer shall at all times have access to all Departments and NCN Entities and to their records and may

- (a) issue directives about how accounts are to be maintained, the reporting of financial matters and how assigned duties are to be carried out on behalf of the chief financial officer;
- (b) require from any employee of a Department or an officer or employee of an agency information and explanations necessary to carry out the Chief Financial Officer's duties and take corrective action for failure to comply;
- (c) examine and report on the operations and financial management of any Department or NCN Entities; and
- (d) assign an employee or contractor in any Department or agency to ensure that there is compliance with this law or any other NCN Law.

## **PART V**

### **FINANCIAL MANAGEMENT**

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

**13(1)** No later than March 31 of each year, Chief and Council must approve a multi-year plan for a period of five years comprised of the current Fiscal Year and the four succeeding Fiscal Years, which plan is based on the projections of Revenues, expenditures and Investments and anticipated deficits or surpluses by significant category for each Fiscal Year as well as input from NCN Citizens about the priority areas they would like to see funded during the period covered by the multi-year plan.

#### **Annual budget**

**13(2)** The annual budget must encompass all operations or Capital Expenditures for which the Nation is responsible and must identify

- (a) anticipated Revenues, segregated by significant category, with estimates of the amount of Revenue from each category;
- (b) anticipated expenditures, segregated by significant category, with estimates of the amount of Revenue from each category; and
- (c) any anticipated annual and accumulated surplus or deficits.

#### **Budget Planning Process**

**14.** The NCN budget planning process shall be undertaken within ninety (90) days prior to the end of the Fiscal Year the budget planning process shall include

- (a) submissions of a preliminary work plan and budget from each director of a Department or an NCN Entity to the Chief Executive Officer and the Chief Financial Officer for preliminary review and analysis;

- (b) preparation of a comprehensive draft budget by the Chief Financial Officer on the basis of the documents submitted and an analysis of projected Revenues and recommendations to Treasury Board and Chief and Council to address any shortfalls;
- (c) Treasury Board review of the annual budget and recommendations to Chief and Council; and
- (d) Chief and Council review and approval of the budget for the Nation for the next Fiscal Year as well as any amendments to approved budgets throughout the Fiscal Year

## **PART VI**

### **NCN ENTITIES**

#### **Plans and budgets of NCN Entities**

**15.** Each NCN Entity shall annually submit a plan for the NCN Entity's operations to the appropriate portfolio holder prior to submission to the Chief Executive Officer and the Chief Financial Officer, for approval by the portfolio holder for submission to Treasury Board and then Chief and Council as part of the annual budgeting process.

#### **Scope and content of NCN Entity plan**

**16.** The plan for each NCN Entity shall encompass all businesses and activities of the agency, including any Investments of the NCN Entity and in the case of a corporation, any wholly owned subsidiaries and shall include:

- (a) the objects or purposes for which the NCN Entity is established;
- (b) the NCN Entity's objectives for the period to which the plan relates and for each individual year covered by the plan and the strategy of the agency to meet those objectives;
- (c) the NCN Entity's prior year performance in relation to its objectives and the expected performance of the NCN Entity for the period of the plan and each individual year; and

- (d) all projected Revenues including an analysis of how the projections compare to the previous five years.

**Restriction on NCN Entity activities inconsistent with approved plan**

17. No NCN Entity including a wholly owned subsidiary of an NCN corporation shall carry on any business or activity or make any expenditure that is inconsistent with the NCN Entity's plan approved by Chief and Council including any conditions established by Council Resolution.

**Annual operating and capital budgets**

18. Each NCN Entity shall annually submit a capital and an operating budget for the next following fiscal year of the NCN Entity to the portfolio holder, the Chief Executive Officer and the Chief Financial Officer for review, analysis and submission for approval by Treasury Board and Chief and Council on the recommendation of the portfolio holder.

**Amendments to capital and operating budgets**

19. Where an NCN Entity anticipates that the total amount of expenditures or commitments to make expenditures in respect of a business activity in a financial year will vary significantly from the total amount in the approved capital or operating budget the NCN Entity shall submit an amendment to the budget to the portfolio holder for approval by Treasury Board and Chief and Council on the recommendation of the portfolio holder to ensure that all financial covenants with any financial institution or other lender can be met.

**Treasury Board conditions**

20. Treasury Board may specify such terms and conditions it considers appropriate for approval of a capital or an operating budget or an amendment to a capital or an operating budget of an NCN Entity.

**Intended borrowing**

21. Where an NCN Entity intends to borrow money, the NCN Entity shall so indicate in its annual plan and no NCN Entity shall enter into any particular transaction to borrow money



without the approval of Treasury Board with respect to any of the terms and conditions of the borrowing.

### **Deficits**

22. Chief and Council must ensure that the Nation's financial plan indicates how any deficit will be managed to ensure it does not negatively impact the covenants in any financial agreement or the financial integrity and credit worthiness of the Nation.

### **Amendments to annual budgets**

23. The approved annual budget of the Nation or any Department or NCN Entity shall not be changed without review by Treasury Board and approval by Chief and Council.

### **Disclosure to NCN Citizens**

24. As soon as reasonably practicable following approval of the Nation's annual budget and financial plan or any subsequently approved amendments to the annual budget the information shall be presented to a General Assembly and be made available on the NCN website.

## **PART VII EXPENDITURES**

### **Prohibited expenditures**

25. Money must not be paid out of an account unless the expenditure is authorized under a budget Appropriation.

### **Extraordinary or emergency expenditures**

26. Notwithstanding Article 24, Chief and Council may authorize expenditures for extraordinary or emergency purposes that could not have been anticipated in the budget as long as the expenditure is not prohibited under this law, any other NCN Law or financing agreement.

## **Appropriation**

**27.** An amount that is appropriated in a budget must not be expended for any other purpose other than that described in the Appropriation and each person responsible for managing an Appropriation must establish and maintain a record of commitments chargeable to that Appropriation.

## **Payments after Fiscal Year end**

**28.** Money appropriated in a budget for a Fiscal Year must not be expended after the end of the Fiscal Year except to discharge a liability incurred during the prior Fiscal Year unless the expenditures are for approved capital expenses where the capital project is not completed by the end of the Fiscal Year.

## **Shortfalls at end of Fiscal Year**

**29.** If the liabilities of an Appropriation exceed the unexpended balance in the Appropriation at the end of the Fiscal Year, the excess liability must be

- (a) charged against an Appropriation for the following Fiscal Year; and
- (b) reported in the financial statements for the Fiscal Year in which the liability was incurred.

## **Special transitional funding authority**

**30.** When approval of a new budget for a Fiscal Year is delayed due to extenuating circumstances, Chief and Council may approve a special loan arrangement to ensure *Nisichawayasi Nehethowuk Okemawin* operations are able to continue while the budget process is being finalized.

## **Reporting of special transitional funding**

**31.** A statement of special funding authorized by Chief and Council in accordance with section 30 shall be reported in the Nation's public accounts for that Fiscal Year.

### **Settlement of debt or obligation**

32. When a claim for a debt or obligation is made against NCN, whether or not formal court or tribunal proceedings have been commenced, and Chief and Council are satisfied that it is in the public interest to enter into an agreement to settle the claim for a specified amount, Chief and Council may settle the claim for the amount in full satisfaction of the claim and pay the amount in settlement of the claim out of the NCN Consolidated Fund.

### **Payment of moneys ordered by court or tribunal**

33. Chief and Council may pay out of the NCN Consolidated Fund any moneys required to be paid by orders of the *Nisichawayasi* Court or other court of competent jurisdiction, a tribunal or an award of an arbitrator made against NCN or an NCN Entity.

### **Set-off**

34. When a person owes money to NCN or an NCN Entity, Chief and Council may authorize the retention by way of deduction or set-off of the amount of that indebtedness out of any amount that may be due and payable by NCN or an NCN Entity to that person including from wages, contracts, programs or services.

## **PART VIII**

### **FINANCIAL INSTITUTION ACCOUNTS**

#### **Banking**

35. Chief and Council may by Council Resolution open, maintain or close accounts on behalf of the *Nisichawayasi Nehethowuk Okemawin* with a bank, trust company, credit union or other financial institution on the terms and conditions it considers appropriate.

#### **Banking by government NCN Entities**

36. Notwithstanding any other law, Chief and Council may issue directives to a government agency about its banking arrangements.

## **Collection and management of NCN moneys**

**37.** Except as provided by this law or any other NCN Law, every person who is employed in the collection or management of moneys on behalf of the Nation shall ensure all such moneys are deposited to an NCN bank account authorized by Chief and Council.

## **PART IX**

### **BORROWING**

#### **Limitations on borrowing and granting security**

**38.** Except as authorized by this law or another NCN Law, Chief and Council shall not borrow money or grant security on behalf of the Nation.

#### **Borrowing**

**39.** Subject to section 34, Chief and Council may borrow moneys for operations, capital projects or Investments

- (a) from a bank, trust company, credit union, or other financial institution; and
- (b) in any other manner that is considered prudent and fiscally responsible.

#### **Loan Particulars**

**40.** Chief and Council shall by NCN order-in-council, approve each loan or delegate authority to the Chief Financial Officer, a member of the Executive Management Team or the financial advisor to make loan arrangements .

#### **Use of borrowed moneys**

**41.** Moneys borrowed by the Nation for a specific purpose must only be used for that purpose but if moneys borrowed for a specific purpose are no longer required for that purpose then they shall be applied to repay the loan as soon as practicable unless the lender is agreeable to the moneys being used for another purpose, which arrangement shall be documented in writing and available upon request to NCN Citizens.

## **PART X**

### **FINANCIAL MANAGEMENT**

#### **Guarantees and Indemnities**

**42.** Prior to Chief and Council guaranteeing a debt on behalf of the Nation, or agreeing to indemnify a person, it shall receive a report from the Chief Financial Officer or its financial advisors outlining any risks associated with giving the guarantee or indemnity and assessing the ability of the Nation to honour the guarantee or indemnity should it be required to do so.

#### **Advances and Loans**

**43.** Chief and Council must establish policies respecting the terms and conditions under which Advances and Loans may be made to NCN Entities or NCN Citizens and all such Advance or Loan arrangements must be made in writing.

#### **Ministerial Loan guarantees**

**44.** Chief and Council must only enter into loan guarantees with another government after

- (a) assessing the risk to the Nation;
- (b) evaluating whether the loan guarantee could negatively impact the Nation's credit-worthiness and financial integrity; and
- (c) evaluating the ability of the mortgage holder to make the mortgage payments.

#### **Authority to Invest and Authorized Investments**

**45.** Chief and Council may authorize investment of the Nation's financial assets but in doing so must exercise the care, skill, diligence and judgment that a prudent investor would exercise in making such Investments by considering, without limitation:

- (a) general economic conditions;
- (b) possible effect of inflation or deflation;

- (c) expected tax consequences of investment decisions or strategies;
- (d) role that each investment or course of action plays within the Nation's overall portfolio;
- (e) expected total return from income and the appreciation of capital; and
- (f) need for liquidity, regularity of income and preservation or appreciation of capital.

#### **Administration of Investments and Loans**

**46.** Chief and Council is authorized to do all things necessary or advisable to make, maintain or dispose of the investment or loan.

## **PART XII PROCUREMENT**

#### **Fundamental principles**

**47.** Goods and services shall be acquired by NCN and NCN Entities in accordance with procurement policies approved by Chief and Council which are based on the following principles:

- (a) goods and services will only be acquired after consideration of needs, alternatives, timing, and confirmation of a budget allocation approved by Treasury Board and Chief and Council;
- (b) purchasing decisions must meet the needs of NCN or an NCN Entity in a cost-effective manner;
- (c) all contracts of a value greater than \$5,000 must include a 10% hold-back provision to ensure that the goods or services provided are satisfactory;
- (d) the process by which suppliers compete for NCN and NCN Entities will be open, fair and consistent;

- (e) approvals must be obtained and documentation shall be retained for review and auditing;
- (f) preferences will be provided to businesses that are owned by NCN or NCN Citizens or that employ NCN Citizens with the objective of building capacity within NCN as long as the costs are reasonable and there are no adverse impacts on a construction or delivery schedule or the quality of the goods or services to be delivered;
- (g) all NCN Departments and NCN Entities must use the procurement policies approved by Chief and Council identified for a specific type of procurement unless an alternate procurement method is approved by Chief and Council; and
- (h) Chief and Council or its delegate must participate in the process to select the project manager, architect and constructor for any capital project.

## **PART XI**

### **EXPENDITURES AND RELATED MATTERS**

#### **Expenditures**

**48.** Subject to subsection (2), no expenditure shall be made unless it is authorized under an Appropriation approved by Chief and Council with the exception of expenditures of Trust Moneys where the expenditure is authorized under the terms of the trust.

#### **Extraordinary expenditures**

**49.** Chief and Council may authorize additional expenditures for an emergency purpose that could not have been reasonably anticipated at the time the budget was approved if the expenditure is not prohibited by this law, another NCN Law, or NCN's financial agreements.

### **Forward commitments**

50. Chief and Council may authorize forward commitments for approved major capital projects or other Investments as well as any related operation and maintenance costs unless prohibited or limited by the NCN Entities founding documents.

### **Holdbacks**

51. If Chief and Council holdback an amount that is payable under an agreement with the Nation or one of its government NCN Entities, the payment of the amount withheld shall be charged to the Appropriation from which the agreement is to be paid even if the Fiscal Year for the Appropriation has ended.

### **Interest**

52. Chief and Council shall establish a reasonable rate of interest the Nation may charge on any debts or payments owed to the Nation that are overdue and such payments upon collection shall be credited to the NCN Consolidated Fund.

### **Write off and extinguishment of debts**

53. Chief and Council may write off or extinguish any debt owed to the Nation.

### **Fiscal stabilization fund**

54. Chief and Council may establish and allocate funds to a fiscal stabilization fund which fund may be used in years when Revenue decreases occur.

## **PART X**

### **AUDITS AND FINANCIAL REPORTING**

#### **Appointment of Auditor**

55. Chief and Council shall appoint an independent auditor for a term of three to five years to audit the NCN Consolidated Fund as well as any other accounts of NCN or an NCN Entity and the auditor must make any examinations and inquiries that the auditor considers necessary to report as required by this law.



## **GAAP**

**56.** All accounting practices of the Nation must comply with GAAP with the exception of specific contribution agreements which shall be subject to fund accounting principles.

### **Auditor's report and opinion**

**57.** The auditor must provide a report to Chief and Council about the examinations and audits conducted and express an opinion as to whether the financial statements fairly present information in accordance with GAAP, fund accounting and any other NCN policies and any reservations the auditor may have.

### **Content of the auditor's report**

**58.** The auditor's report must indicate anything that the auditor considers must be brought to Chief and Council's attention, including but not limited to, circumstances in which

- (a) required information was not provided or was not provided within a reasonable time;
- (b) accounts were not properly kept or public money was not fully accounted for;
- (c) essential records were not maintained, or the rules and procedures applied were insufficient to
  - (i) control and manage NCN property;
  - (ii) check on the collection and proper allocation of Revenue;
  - (iii) ensure that expenditures were only made as authorized;
- (d) public money was expended for purposes other than those approved by Chief and Council;
- (e) financial and administrative policies and directives were not complied with;
- (f) any recommendations the auditor is of the opinion would enhance the financial management of the Nation.

### **Quarterly Cash Flow Statements**

**59.** No more than forty-five (45) days following the end of each quarter of the Fiscal Year the Chief Financial Officer shall prepare and provide to Chief and Council the quarterly cash flows for each Department or NCN Entity which Chief and Council shall approve or issue directives to any Departments or NCN Entities about budgetary adjustments that must be made and the cash flow analysis and budgetary directives shall be available upon request to NCN Citizens.

### **Annual Financial Statements**

**60.** The Chief Financial Officer shall co-ordinate the receipt of information from Departments or NCN Entities for the audit of the annual consolidated financial statements of the Nation in accordance with GAAP or fund accounting rules as determined by Chief and Council depending upon Revenue source.

### **Audit Requirements**

**61.** Within ninety (90) days of the end of the Fiscal Year, the auditor must audit the financial statements of the Nation and provide the audit opinion to Chief and Council unless there are extenuating circumstances acceptable to Chief and Council.

### **Auditor's Authority**

- 62.** The auditor shall be given access to
- (a) all of the Nation's financial records, minutes and other relevant information for examination as well as any copies of such records or other documentation upon request; and
  - (b) any member of Chief and Council, employee, contractor, advisor or agent of the Nation to obtain any relevant information.

### **Review and Approval of Audited Financial statements**

**63.** Chief and Council shall review and approve the Nation's audited financial statements no more than one hundred and twenty (120) days after the end of the Fiscal Year for which they were prepared unless there are extenuating circumstances.

## **Access to Financial Statements**

**64.** The audited financial statements shall

- (a) be posted on the NCN website but any parts of the audit which could negatively affect a business owned and operated by the Nation in a competitive market may be redacted by Chief and Council in its sole discretion prior to posting;
- (b) be made available to NCN Citizens upon the payment of any reasonable fee established by Chief and Council; and
- (c) be reviewed by Chief and Council at the first general assembly scheduled following receipt of the auditor's report.

## **PART X**

### **REPEAL AND COMING INTO FORCE**

#### **Repeal bylaw**

**65.** The 1971 NCN financial administration bylaw established pursuant to the Indian Act (Canada) is repealed.

#### **Effective date**

**66.** This law comes into force within thirty (30) of the date it is approved by Chief and Council.

#### **Transition**

All actions taken in accordance with the law-making processes in *Othasowewin* between the date it was approved by NCN Citizens on November 29, 2018 and the effective date on April 16, 2018 to prepare this law shall be considered valid and conducted in accordance with *Othasowewin*.