

FINANCIAL MANAGEMENT BY-LAW  
OF THE \_QALIPU MI'KMAQ FIRST NATION BAND

WHEREAS the Chief and Council of the Qalipu Mi'kmaq First Nation Band wishes to establish a comprehensive By-law to govern financial accountability of the Band to its Members.

THEREFORE, the Chief and Council of the Qalipu Mi'kmaq First Nation Band at a duly convened meeting resolve to adopt the following as its By-law in respect of financial accountability of the Band to its Members.

I. GENERAL

Definitions

1. The following terms, whenever used in this By-law, will have the meanings respectively ascribed:

“Agencies” means board, tribunal, body, group, commission, or committee, of the Qalipu Mi'kmaq First Nation Band or any corporate body controlled by the Qalipu Mi'kmaq First Nation Band including a society, a Non-profit corporation or Business corporation.

“Agreement” means any written contract between the Qalipu Mi'kmaq First Nation Band and another party or parties, including the federal and provincial governments or a third party pursuant to which money is either paid to the Qalipu Mi'kmaq First Nation Band or paid by the Qalipu Mi'kmaq First Nation Band to the other party or parties.

“Band” means the Qalipu Mi'kmaq First Nation Band.

“Band Council Resolution” means a resolution of the Qalipu Mi'kmaq First Nation Band passed by a quorum of Council at a duly convened meeting of the Council.

“Band Manager” means the Band Manager employed by the Band.

“Committee” means a committee of the Band.

“Council” means Chief and Council of the Band.

“Councilor” means any member of the Council.

“Employee” means any employee or contractor of the Band.

“Comptroller” means the Comptroller employed by the board.

“Member” means a member of the Band.

“Membership” means the membership of the Band.

“Notice” means advanced written notice as to the date, time and place of a regular meeting of Council or

General Meeting posted on the web site of the Band.

“Quorum” means majority of the Council of the Band.

#### Compliance with By-law

2. The Council, Employees and Committee members will act in accordance with this By-law.

3. The Council, Employees and Committee members will not disclose confidential financial information unless authorized by this By-law.

## II. FINANCIAL DECISION-MAKING PROCESS

4. Council, Employees and Committee members will be provided with all financial information necessary to carry out their roles and responsibilities.

#### General Meetings

5. The Band will hold a General Meeting not less than once a year.

6. Council will communicate and consult to the extent possible with Membership on all-important financial issues that affect the Band.

7. Council and program managers will provide regular performance reports at General Meetings.

#### Open Meetings

8. Council will provide notice of Council and General Meetings to Membership.

9. Regular meetings of Council and General Meetings will be open to Members. No Member will be excluded from a regular meeting of Council or General Meeting except for improper conduct.

## Minutes of Meetings

10. Council will keep minutes of all Council and General Meetings. The minutes of Council and General Meetings will be made available to Membership immediately following the next regular meeting. Council will provide copies of minutes to Members upon request. Minutes of Council meetings held in camera will not be disclosed to Members.

## Finance Portfolio

11. Council will appoint a Councilor to hold the Finance Portfolio for the Band.

## Finance Committee

12. Council may appoint a special committee on financial matters (the "Finance Committee"). The Councilor who holds the Finance Portfolio will be the chairperson for the Finance Committee. A Finance Committee will be comprised of five Members appointed by Chief and Council from time to time. Two members of the finance committee shall be elected Councilors of the Qalipu Mi'kmaq First Nation Band, two members shall be band members at large with financial background and/or interest or knowledge, and the fifth member shall be the band's Comptroller. The Chief of the Band and Band Manager will be ex-officio members of the Finance Committee and shall not be entitled to vote at all meetings. Three members of the Finance Committee will constitute a quorum provided the quorum is comprised of at least one member at large and the Comptroller.

13. The general duties of the Finance Committee are as follows:

a.) Review and recommend the Band's annual consolidated budget for Council's consideration. In this regard, the Committee shall ensure the Band's annual budget reflects the entirety of the Band's operations and strategic plan(s). The annual budget shall not be presented to Council unless and until the Committee is satisfied the budget is in compliance with this By-law and materially reflects the Band's projected revenues and expenditures for the upcoming fiscal year.

b.) Supervise the annual audit of the Band's finances and recommend, when satisfied, the audited financial statements to Council for adoption.

c.) Review and monitor, on a by-monthly basis or another frequency determined by Council, the financial statements (i.e. statement of financial position, consolidated budget reflecting revenues and expenses, program budgets, etc.) of the Band and report to Council on the financial position of the Band accordingly.

d.) When requested by the Executive Committee, evaluate new Band programs and services with projected budgets greater than \$100,000 and recommend to Council the pursuit or abandonment of the new programs and services under evaluation.

e.) The Committee shall, on an annual or more frequent basis, review the financial statements of Agencies that are provided to the Band as a shareholder. Upon reviewing such financial statements, the Committee shall furnish Council with a report summarizing the financial position of the Agency along with observations that, in the Committee's assessment, would enhance the Agency's operations.

f.) Council may establish a Terms of Reference for the Committee that may, among other things, assign additional duties to the Committee. Notwithstanding the latter, additional duties assigned to the Committee shall not conflict with this By-law.

### 13.2 Finance Committee Resources

In exercising its general duties as prescribed in this By-law, the Finance Committee shall have access to Band resources and documents that it deems necessary to execute its general duties

### 13.3: Chairperson Powers and Duties

The Chairperson of the Finance Committee, or his/her designate, shall have the following powers and duties:

- a.) Formulating the Committee's agenda.
- b.) Convening meetings of the Committee
- c.) Serving as presiding officer of Committee meetings.
- d.) In general, ensuring the Committee complies with this By-law and addresses its general duties in a competent and transparent manner.
- e.) In general, ensuring the Committee complies with this By-law and addresses its general duties in a competent and transparent manner.
- f.) Ensuring the Committee has the necessary resources and documents to address its general duties under this By-law.
- g.) Severing as a liaison between the Committee and the Band Manager to secure financial information from employees as it relates to the Committee's general duties.
- h.) Presenting the Committee's minutes to Council.

### 13.4: Finance Committee Secretary

The Finance Committee shall appoint a Secretary of the Committee from among the Band's employees. The Secretary shall attend all meetings of the Committee but shall not be entitled to vote. The Secretary shall have the following duties:

- a.) Assisting the Chairperson with the execution of his/her duties.
- b.) Preparing Committee minutes.
- c.) Preparing reports and correspondence for the Committee as required.

#### 13.5: Finance Committee Minutes

Minutes outlining the business addressed by the Finance Committee shall be prepared and circulated to members within five (5) business days after a meeting. Minutes shall;

- a.) Document those members in attendance;
- b.) Provide a summary of the business addressed by the Committee during the meeting with a specific reference to the financial position of the Band;
- c.) Record the decisions of the Committee and the supporting reasons;
- d.) Outline recommendations for Council's consideration;
- e.) Outline concerns and issues that require Council's consideration; and
- f.) Any other matter deemed important by the Committee.

#### Annual Budget

14. Council will receive and approve the Annual Budget for each fiscal year by Band Council Resolution.

15. Each program manager of the Band will prepare the program budget for the operation of the program, and will submit the prepared budget to the Finance Committee. For each program budget, the Finance Committee or Council during the approval process may increase allocation of funds, reduce allocation of funds, or reallocate funds to different programs or sectors. The Finance Committee will consolidate program budgets into an annual budget for the Band.

16. The Annual Budget will be made available by Council to its Membership.

17. Council may amend the Annual Budget at any time before or after its implementation by Band Council Resolution.

18. A copy of the Annual Budget will be made available by Council to its Membership and shall:

- (a) be made available during reasonable business hours of any business day at the Band office for inspection by any Member upon a request for such inspection made to the Band Manager; and
- (b) Be provided to any Member upon a written request made to the Band Manager and payment of a reasonable photocopy fee, if requested by the Band Manager.

Expenditures

19. All payments and financial commitments of the Band will be in accordance with the Annual Budget or in accordance with Band Council Resolution.

#### Monthly Financial Statement

20. No later than the 15th day of each month, the Comptroller will prepare and deliver to the Band Manager a Financial Statement in respect of all Band finances for the preceding month showing:

- (a) An itemization of all revenue monies received and expenditures made;
- (b) Standing of the general ledger balances; and
- (c) Any other information that may be required or requested by the Band Manager.

21. Each monthly Financial Statement prepared and delivered by the Comptroller to the Band Manager will be presented to Council by the Band Manager or Comptroller at the next regular meeting of Council.

22. Program Managers may be requested by Council to make a financial activity report to Council for the next regular meeting of Council.

#### Audit

23. Based on the recommendations of the Finance Committee, Council will appoint by Band Council Resolution an Auditor at the Annual General Meeting to audit the books and records of the Band.

24. The Auditor will be a member of a recognized professional accounting association authorized to conduct audits.

25. The Auditor is entitled to access the following Band information:

- (a) All books, records, accounts and vouchers;
- (b) Information from any Program Manager necessary for the completion of the audit;
- (c) Council resolutions, by-laws and minutes;
- (d) Administration and financial regulations;
- (a) All agreements and contracts; and
- (b) All other related documents required by the Auditor to complete the Audit.

26. The Auditor is entitled to attend any Finance Committee, Council or General Meeting, and to receive every notice and other communication relating to such meetings that a Finance Committee Member and Councilor are entitled to receive, and is entitled to be heard at any Finance Committee, Council or General Meeting that he or she attends on any part of the business of such meeting that concerns him or her as Auditor for the Band, or that concerns Financial Statements of the Band.

27. Council and the Finance Committee will provide the Auditor with instructions concerning the Audit, and through the Comptroller, will assist the Auditor in the completion of the Audit.

28. The Audit will include all transactions involving Band finances. The Audit must be in accordance with generally accepted auditing procedures. The Audit will include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Band.

29. The Audit may be accepted by Council by Band Council Resolution prior to June 30 of each year.

30. The Auditor shall present the Audit to Council and Membership at the Annual General Meeting of the Band.

31. An original copy of every annual Audit will be kept at all times by the Band as part of the permanent financial records of the Band.

32. A copy of the Audit will be:

- (a) Available during reasonable business hours of any business day at the Band office for the inspection by any Member upon a request for such inspection made to the Band Manager; and
- (b) Copy provided to any Member upon a written request to the Band Manager and upon payment of a reasonable photocopy fee, if required by the Band Manager.

### III. CONFLICT OF INTEREST GUIDELINES

33. In this By-law "Related Person" means a spouse, parent, parent-in-law, sibling, child, grandchild, dependents, aunt, uncle, niece, nephew, any person with whom they currently reside.

34. In this By-law "Financial Benefit" includes, but is not limited to:

- (a) Employment benefits;
- (b) Contract benefits;
- (c) Educational, medical or other social benefits;
- (d) Honorariums;
- (e) The payment of any money; or
- (f) The allocation or divestiture of Band assets.

35. A "Conflict of Interest" will arise when:

- (a) A Councilor, Employee, or Committee member exercises an official power or performs an official duty or function in the execution of his or her office, job or committee and at the same time knows or ought to know that in the performance of the duty or function or in the exercise of the power there is opportunity to receive a

Financial Benefit for themselves or to provide a Financial Benefit to a Related Person;  
or

(b) A Councilor's, Employee's or Committee member's personal interests supersede or compete with their dedication to the best interests of the Band.

36. A Conflict of Interest will not arise if a Financial Benefit is intended or extended at the same time:

(a) To Membership;

(b) To a group of Members who are identifiable by reference to age, gender, financial circumstances, or medical needs; or

(c) To Council as a whole.

37. Prior to approving a Financial Benefit to a Councilor, the Council will determine whether the Financial Benefit is consistent with this By-law and is consistent with standards of other federal governing boards.

38. All Council discussion and resolutions concerning Financial Benefits payable to Council or Councilors will be made at General Meetings.

39. Councilors, Employees, and Committee members will arrange their private affairs and conduct themselves in a manner to avoid a Conflict of Interest.

40. Councilors, Employees and Committee members with a Conflict of Interest will, without delay, declare the Conflict of Interest to the Council by completing a "Conflict of Interest Declaration form" in the manner prescribed by the Band.

41. Where Councilors, Employees or Committee members are unsure of whether they have a Conflict of Interest, the Councilor, Employee or Committee member will raise the perceived Conflict of Interest with the Council, and the Council will decide whether a Conflict of Interest does exist with the Band.

42. A Councilor, Employee, or Committee Member with a Conflict of Interest will not exercise their powers as a Councilor, Employee, or Committee Member, and will:

(a) Not take part in the discussion of or vote on any question in respect of the matter;

(b) Immediately leave the meeting or the part of the meeting during which the matter is under consideration;

(c) Not sign a Band Council Resolution or letter in respect of the matter;

(d) Not attempt in any way, whether before, during or after the meeting, to influence the opinion or vote of the Council on any question in respect of the matter; and

(e) Not attempt in any way to influence Employees or Committee members in carrying out their duties.

43. Where a Conflict of Interest is discovered after consideration of the matter, the Conflict of Interest must be declared in writing to Council.



44. Any Councilor who fails to or makes an incomplete disclosure of a Conflict of Interest will pay to the Band a sum of money equal to the value of any, and all Financial Benefits the Councilor or Related Person received and benefited from the undisclosed Conflict of Interest notwithstanding any other disciplinary action the Council may take.

45. Nothing in this by-law prevents or restricts the Band from adopting additional Conflict of Interest guidelines and/or policies provided that such does not conflict with the provisions contained herein.

#### IV. FINANCIAL INFORMATION DISCLOSURE

##### Purpose

46. The purpose of this By-law is to make the Band more accountable to Membership by giving Membership a general right of access to financial records of the Band in the custody or under the control of the Band. This By-law also sets out specific limited exceptions to the Membership's right of access to certain financial records.

##### How to Make a Request for Disclosure

47. To obtain access to a financial record, a Member must make a written request to the Band for a copy of the financial record or make a verbal request to examine the financial record.

48. The Band Manager must make every effort to assist Members who make a request for the disclosure of financial records provided such requests are reasonable and in relation to the current fiscal year.

49. The Qalipu Mi'kmaq First Nation Band may charge a member requesting disclosure a reasonable photocopying fee.

##### Band Response

50. The Band Manager must respond openly, accurately and completely to the Member within 30 days from the date a request is received unless more time is required. If more time is required, the Band Manager will inform the applicant when the response can be reasonably fulfilled.

51. In a response under section 49, the Band Manager must advise the Member in writing:

(a) Whether or not the Member is entitled to have the financial record or part of the

record disclosed to him or her;

(b) If access to the financial record or to part of the record is refused,

i. the reasons for the refusal, and

ii. the Member may request a review of the Band Manager's decision by Council pursuant to Section V of this By-law.

52. If the Member is entitled to have the financial record disclosed to him or her and it can be reasonably reproduced, a copy of the financial record must be provided with the Band Manager response. The Band may charge the applicant a reasonable photocopying charge.

53. If the Member is entitled to have the financial record disclosed to him or her and it cannot be reasonably reproduced, the Member must be permitted to examine the financial record at the Band office during regular business hours of any business day.

#### Exceptions to Disclosure

54. The Band Manager must refuse to disclose to an applicant financial information that:

(a) would reveal the deliberations of Council or any of its committees, including any advice, recommendations, or By-law considerations submitted or prepared for submission to the Council or any of its committees unless those deliberations concerned the applicant;

(b) legal opinions which are subject to solicitor client privilege;

(c) other privileged documents which could reasonably expect to reveal information received in confidence from a government, Band, Society, Corporation, or harm the conduct of negotiations relating to aboriginal self-government or treaties;

(d) could reasonably be expected to harm the financial or economic interests of the Band; or

(e) would be an invasion of a third party's personal privacy, including but not limited to, personal financial information relating to eligibility for or receipt of employment benefits, health benefits, income assistance, education benefits or social service benefits, unless the financial information pertains to the payment of money, honorariums, contract fees, and employment benefits of a Councilor received from the Band for which the Band Manager must fully disclose upon request by a Member.

#### Third Party Disclosure

55. The Band may disclose a Band Members' financial information to another government body if the financial information is required to ensure that the Member is complying with all eligibility requirements for Financial Benefits of programs administered by the Band and only with the consent of the Band Member.

## V. DISPUTE RESOLUTION

### Administrative Decisions

56. A member may appeal a decision of the Band Manager or Comptroller made under any provision of the Financial Management By-law within 30 days by providing Council a written notice to appeal and containing the reasons of appeal.

57. Any decision that the Band Manager is permitted to make under the Financial Management By-law may be delegated to the Comptroller and any decision made by the Comptroller, pursuant to that delegation, is valid and has the same effect as if made by the Band Manager.

58. Upon receipt of a written notice to appeal from a Member, Council will hear the Member's appeal within 30 days at a Council meeting held in accordance with sections 8 and 9.

59. The decision of Council shall be final.

60. The Band shall not be responsible for any costs associated with individuals' appeal of a decision of the Band Manager or Comptroller.

#### Mediation and Arbitration

61. In the event of a dispute between Council and Membership in respect of this By-law, the dispute may be resolved by either mediation or arbitration if both Council and the members mutually agree to submit to mediation and arbitration.

#### Agreements

62. The Council may approve on behalf of the Qalipu Mi'kmaq First Nation Band such agreements of funding arrangements with the federal and provincial governments or with any other party for the provision of funding for the Qalipu Mi'kmaq First Nation Band, its agencies and other bodies.

63. Where an agreement or arrangement has been approved under section 62, the Council of the Qalipu Mi'kmaq Band may approve such agreements or sub-agreements for management of money received and the delivery of programs and services for its membership with any other party or agency.

64. The reporting and accountability provisions of this Financial Management By-law shall be applicable to funds managed and programs and services delivered by other parties pursuant to an agreement or sub-agreement.

APPROVED AND PASSED at a duly convened meeting of the Council of the Qalipu Mi'kmaq First Nation Band this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Chief

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Vice Chief Vice Chief

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Councilor Councilor

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Councilor Councilor

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Councilor Councilor

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Councilor Councilor

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Councilor