

SHUSWAP INDIAN BAND

BYLAW NO. 2006-002

SHUSWAP INDIAN BAND
FINANCIAL MANAGEMENT BYLAW

A bylaw to regulate the receipt, management, and expenditure of Shuswap Indian Band funds and establish the administrative structure of the Shuswap Indian Band, which manages the funds;

WHEREAS the *Indian Act, R.S.C. 1985, c.I-5*, provides that: Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for the following purposes:

- The appropriation and expenditure of moneys of the Shuswap Indian Band to defray the Shuswap Indian Band expenses;
- The appointment of officials to conduct the business of the Council and prescribing their duties; and
- With respect to any matter arising out of or ancillary to the exercise of the aforementioned power;

AND WHEREAS the Council of the Shuswap Indian Band has determined that it is desirable and necessary that a financial management bylaw be established for the purposes set out in section 83(1) of the Indian Act and for the better and transparent administration of the Shuswap Indian Band's business;

NOW THEREFORE the Council of the Shuswap Indian Band at a duly convened meeting of the Council enacts the following bylaw:

TITLE

- 1) This bylaw may be called the "Shuswap Indian Band Financial Management Bylaw".

DEFINITIONS

- 2) In this bylaw,
- a) “*agencies*” means any board, tribunal, commission, committee of the Shuswap Indian Band or any corporate body controlled by the Shuswap Indian Band including a society, non-profit corporation or business corporation but does not include a business corporation operated for a profit making purpose;
 - b) “*agreement*” means any written contract between the Shuswap Indian Band and another party or parties, including the federal government, the provincial government or a third party, pursuant to which money is to be paid to the Shuswap Indian Band;
 - c) “*annual budget*” means the forecast of planned expenditures for the forthcoming fiscal year by the Shuswap Indian Band;
 - d) “*board*” shall mean the Shuswap Indian Band Treasury Board established pursuant to this bylaw;
 - e) “*council*” shall mean the Chief and Council of the Shuswap Indian Band;
 - f) “*department*” means an administrative division of the Shuswap Indian Band Government as established from time to time by Council and includes service centres, administrative units and other internal organizational units of the Shuswap Indian Band administration;
 - g) “*family*” shall mean a spouse, including a common law spouse, children, parent, brother, sister, father-in-law, mother-in-law, uncle, aunt, grandparent, son-in-law, daughter-in-law, and also includes any relative permanently residing in the person’s household.
 - h) “*personal gain*” shall mean financial benefit for the individual or for the members of his or her immediate family.
 - i) “*resource revenues*” means as defined in the Indian Act, Section 69;
 - j) “*resolution*” means a Band Council Resolution made at a duly convened and scheduled meeting of a quorum of Council;
 - k) “*Shuswap Indian Band*” means Shuswap Indian Band located near Invermere, BC and is designated number 605 for Indian and Northern Affairs Canada reference;

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- 1) “*Shuswap Indian Band funds*” means all moneys belonging to the Shuswap Indian Band and includes:
 - (a) all revenues of Shuswap Indian Band;
 - (b) Money borrowed by the Shuswap Indian Band;
 - (c) Money received or collected on behalf of the Shuswap Indian Band;
and
 - (d) All moneys that are received or collected by the Shuswap Indian Band pursuant to any agreement or funding arrangement and is to be disbursed for a purpose specified by Council or pursuant to that agreement or funding arrangement;

But does not include:

- (a) Money received, as Resource Revenues payable into the Shuswap Indian Band trust account by the Government of Canada;
- (b) Money received by the Shuswap Indian Band on behalf of an individual or corporate entity, where Council has approved an alternative arrangement for the managing of the money pursuant to section 74 of this bylaw;

APPLICATION

- 3) This bylaw governs the receipt, management and expenditure of Shuswap Indian Band funds and the administrative organization of the Shuswap Indian Band to manage the funds.
- 4) This bylaw applies to all Shuswap Indian Band departments and agencies in receipt of Shuswap Indian Band funds.

TREASURY BOARD

- 5) A Treasury Board of the Shuswap Indian Band is hereby established and shall continue in existence notwithstanding changes in the membership from time to time.
- 6) The Board shall consist of a maximum of seven (7) members appointed unanimously by the Council from time to time.

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- 7) A Minimum of two (2) of the members of the Board shall be members of the Council. Chief and Council representatives subject to section 6 and section 10 shall be changed at the time the newly elected Chief and Council take on the business of governing the Shuswap Indian Band affairs.
- 8) All Board members shall be in good standing and subject to a criminal record review.
- 9) The Chairman shall be elected by the Board and serve for a term of two (2) years.
- 10) The Chairman shall preside over the meetings of the Board and shall, between meetings of the Board, exercise or perform such of the powers, duties or functions of the Board as the Board may determine.
- 11) The Board members other than the Chief and Council Board members shall remain in place for a period of not less than 60 days following the first year-end. This Section is to provide the continuity of financial administration following a change in government.
- 12) The Board shall be responsible for:
 - a) The management and control of the collection of Shuswap Indian Band funds;
 - b) The management and control of the expenditures and disbursements of the Shuswap Indian Band;
 - c) The maintenance of records of the financial activities of the Shuswap Indian Band;
 - d) The preparation of the annual budget in accordance with the priorities approved by Council;
 - e) The preparation of the annual audit of the Shuswap Indian Band
 - f) The reporting and recommending to Council on financial matters; and
 - g) All other matters that impact the financial affairs of the Shuswap Indian Band;
- 13) The Board shall meet at least once (1) every two (2) months. Additional meetings may be required for year-end audits and next year's budget preparation and other emergency financial issues.
- 14) All matters discussed at meetings of this Board are confidential unless otherwise agreed to by the Board.

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- 15) The Board shall prepare or cause to be prepared any amendment to the annual budget for the Shuswap Indian Band, which shall be submitted to the Council for review and approval.
- 16) The Board shall maintain or cause to be maintained the financial records of the Shuswap Indian Band through the Office of the Treasurer and the managers of the departments or agencies.
- 17) The Board shall prescribe the form and content of the financial records and establish the accounting systems of the Shuswap Indian Band forwarded to Council for approval.
- 18) The Band shall maintain a central accounting system which shall be managed by one person or Finance department and through which the various departments of the Shuswap Indian Band will provide cheque requisitions to that person or department for issuance of payment, in accordance with the budgets that have been prepared and presented by the Board to Chief and Council and pre-approved by Chief and Council from time to time.
- 19) All cheques issued by the Shuswap Indian Band will be a computer generated cheque created by the central accounting system as noted in Section 16. No hand written cheques will be permitted.
- 20) A member of the Treasury Board may be removed from office:
 - a) By the Chairman if the member has missed three (3) consecutive scheduled meetings of the Treasury Board;
 - b) By a unanimous vote of Council on the recommendation of the Chairman for the members removal; or
 - c) By a unanimous vote of Council.
- 21) The Band Manager shall act as the Administration Officer to the Treasury Board, (AOTB) and shall assist the Board in carrying out its duties.
- 22) The Band Manager shall be hired by the Council and than appointed as the AOTB by the Council and is responsible to Council for the following:
 - a) The conduct of the administration necessary to discharge the administrative responsibilities of the Board, including staff supervision;
 - b) The administrative supervision of the compilation and preparation of the overall annual budget;

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- c) The preparation of annual financial statements and long-term financial projections and cash flows as required from time to time by the Board;
- d) Monitoring adherence to any agreement and funding arrangements entered into by the Shuswap Indian Band or any department or agency;
- e) Administration and supervision of the financial records and reporting systems;
- f) The maintenance of records of all receipts and expenditures in such a manner so as to facilitate the annual audit;
- g) Any other task assigned by the Board;
- h) Attending all Board meetings;
- i) Reviewing and reporting to Council respecting any payable item which has remained unpaid in excess of 45 days;
- j) The AOTB shall also administrate the Human Resource Committee in order to ensure that the Band's budgets and HR compensation is consistent and in compliance with the applicable Band HR and Financial policies.

COUNCIL'S ROLE

- 23) The Council shall appoint a minimum of two (2) councilors and up to five (5) persons to the Board, of which no less than two (2) persons must have a history of financial experience that can support the Band's financial advisory requirements.
- 24) The Council shall review the annual budget of the Shuswap Indian Band as provided by the Board and either approve, recommend amendments or refuse to approve the annual Budget as provided by the Board.
- 25) The Council shall receive and approve the annual audit of the Shuswap Indian Band.
- 26) The Council may, upon the recommendation of the Board or upon its own motion, approve of an exception to this bylaw by an amending bylaw in accordance with Section 83 of the Indian Act.

DELEGATION OF AUTHORITY

- 27) The Council may, upon the recommendation of the Board or upon its own motion, approve the delegation of authority to approve expenditures on behalf of the Shuswap

Indian Band within the annual budget and consistent with the financial organization of the Shuswap Indian Band.

ANNUAL BUDGET

- 28) The Board shall prepare estimates of the revenues of the Shuswap Indian Band for purpose of preparing the annual budget.
- 29) Each department manager and agency manger shall prepare the department or agency's annual budget for the operation of the department or agency and shall submit the budget prepared first to the AOTB for compilation and review and then through the AOTB to the Board which shall prepare with the support of the AOTB and department managers, a consolidated annual budget for the Shuswap Indian Band.
- 30) The annual budget for the Shuswap Indian Band and its agencies shall be submitted by the Board to Council for consideration and approval.
- 31) The Council is solely responsible for the approval of the consolidated annual budget for the Shuswap Indian Band and its agencies for each fiscal year and including the establishing of a yearly honorarium amount to be paid to each Council member in recognition of their service to the Shuswap Indian Band as a Council member.
- 32) Treasury Board will accommodate Council's request to increase allocations of funds in the budget, reduce allocations of funds, or reallocate funds to different sectors in the annual budget if it is within the parameters of professional accounting and financing standards, meets the requirements of contracts and does not unreasonable challenge the financial stability of the Band or its affiliated organizations.
- 33) The annual budget becomes official upon approval by the Council by resolution.
- 34) Treasury Board will accommodate Council request and amend the annual budget at any time before or after its implementation and subject to Section 29.
- 35) The annual budget shall be made available during regular working hours for inspection by any member of the Shuswap Indian Band, and copies are to be provided to Shuswap Indian Band members upon written request to the AOTB and payment of a twenty-five (\$25.00) dollar fee paid to the general administration account of the Shuswap Indian Band.

FINANCIAL MANAGEMENT: DEPOSITS

- 36) There shall be one Consolidated Account established by the AOTB at the direction of the Treasury Board into which all Shuswap Indian Band funds shall be deposited. Funds shall be transferred to applicable accounts and as approved within the Band's operating budget. Consistent with Section 16, the Band shall maintain a central accounting system which shall be managed by one person or Finance department and through which the various departments of the Shuswap Indian Band will provide cheque requisitions to that person or department for issuance of payment, in accordance with the budgets that have been prepared and presented by the Board to Chief and Council and pre-approved by Chief and Council from time to time.
- 37) In order to minimize banking costs, it is the intent to minimize bank accounts. However the Band may be obligated to maintain separate accounts due to contractual obligations
- 38) The AOTB shall ensure the safekeeping of the Shuswap Indian Band funds received and shall forthwith deposit all Shuswap Indian Band funds to the credit of the Shuswap Indian Band Consolidated Account.
- 39) The Board may authorize the AOTB to reallocate funds from the Shuswap Indian Band Consolidated Account to other accounts for investment purposes or program and service delivery and given that such investment accounts are considered reasonable and low risk, e.g. Treasury Bill Savings accounts, within the context of continued program and service delivery.
- 40) Funds in the Consolidated Account shall be administered by the AOTB.
- 41) The interest earned on the Shuswap Indian Bands funds shall be paid to the Consolidated Account.
- 42) Operating surpluses as of the end of the fiscal year shall be paid into the Consolidated Account and allocated or expended in accordance with the direction of the Board and as directed by the Shuswap Indian Band Policy on the Expenditure and Investment of Surplus Funds.

FINANCIAL MANAGEMENT: EXPENDITURES

- 43) All payments and financial commitments shall be in accordance with the annual budget or in accordance with Council resolution. No credit cards shall be authorized or obtained in the name of Shuswap Indian Band.

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- 44) The Board may make accountable advances from the Consolidated Account to an account administered by a department or agency manager on a monthly basis according to the approved annual budget.
- 45) At the beginning of each fiscal year each department and agency manager may receive a one (1) month advance or in such amount as determined by the annual budget and the cash flow approved annual budget.
- 46) Where funds have been advanced to a department or agency, the department and agency managers shall report to the AOTB on the last day of the following month:
 - a) An invoice listing the funds expended in the previous month; and
 - b) A trial balance of the receipts and disbursements for the previous month.
- 47) The invoice listing submitted to the AOTB shall be reviewed and approved by the AOTB if reasonably within the approved budget and upon such approval further advance for the next month shall be made to the department or agency.
- 48) The AOTB shall deduct from the current month's advance, any amounts advanced in prior months, which exceed the amount of the expenditures as recorded in the trial balance.
- 49) The Board may make such adjustments as are required in the last month of the fiscal year to close out the final payment for the year.

FINANCIAL REPORTING: INVOICING

- 50) No payment shall be made for the performances of work, supply of goods or rendering of services unless the charge in respect of such work, goods or services has been authorized:
 - a) Pursuant to a Council resolution;
 - b) By a person delegated to authorize such payment; or
 - c) Pursuant to an agreement entered into between the Shuswap Indian Band and the person providing such work, goods or services which establishes the amount, or a method of calculating the amount, to be charged for such work, goods or services.
- 51) For all work, goods or services that are provided by or through the Shuswap Indian Band or any other person on behalf of the Shuswap Indian Band for a fee or other charge, an invoice shall be rendered before payment for the work, goods or services.

- 52) The AOTB, department or agency manager each have a role in ensuring invoices are rendered pursuant to this bylaw.

AWARDING OF CONTRACTS

- 53) The Council may appoint by resolution the department or agency managers and other persons as authorized to approve the purchase of goods, and services. Any expenditure in the awarding of contracts must receive the prior approval of the Council.
- 54) All orders for work, goods or services provided to the Shuswap Indian Band must be recommended to Council by the department or agency manger authorized to approve the purchase of goods or services.
- 55) Each order for work, goods or services over \$15,000 or such greater amount as approved by Council, unless approved in the annual budget, shall, in addition to the signature of the department or agency manager, require attestation by the AOTB as to availability of funds.

TENDERS

- 56) Capital purchases up to \$15,000 or such greater amounts as approved by Council may be made by a department or agency manger if approved in the annual budget without going to tender.
- 57) Capital purchases over \$15,000 and under \$500,000 or in such amounts as approved by Council may be made by invitations to tender.
- 58) Capital purchases in excess of \$500,000 or such greater amounts as approved by Council must be made by public tender.
- 59) In emergency situations, telephone bids up to \$20,000 or such greater amount as approved by Council may be accepted by a department or agency manager providing a written confirmation follows from the bidder and a record of telephone bids is filed.
- 60) Invitations to tender shall include:
- a) The time and date of closing;
 - b) Sufficient details from which comparable bids can be made;
 - c) The time, date and place tenders are to be opened; and

- d) Amount of security deposit if required.
- 61) The tendering period is not to be less than five (5) working days, unless in an emergency situation.
- 62) All tenders are to be returned sealed and addressed to the Shuswap Indian Band, clearly marked "Tendered for..." and the time and date of receipt is to be recorded on the unopened envelope of tender when received.
- 63) All tenders received shall be opened in public in the presence of the department or agency manager or other person(s) responsible for the tender process.
- 64) The name of the tender, project, date of bid and amount shown must be recorded.
- 65) The lowest tender received shall normally be accepted unless the authorized person deems it in the best interest of the Shuswap Indian Band to do otherwise. As between comparable bids, first preference shall be given to the bid, which has the highest value added or labour component to be provided to the Shuswap Indian Band members.
- 66) Where lowest tender is not accepted, the reasons are to be recorded in the document by the authorized person accepting the contract.
- 67) Upon acceptance of a tender for the performance of work, goods, or services, a contract is to be signed by both parties and shall be kept as a portion of the records of the Shuswap Indian Band.
- 68) In the event that an official or employee of the Shuswap Indian Band has a personal interest in the contract, he or she shall signify the interest and thereafter refrain from taking part in the discussion or participating in the awarding of the contract.
- 69) No disbursements or payment on any contract shall be made without supporting documentation as determined by the policies of the Board.
- 70) A fifteen percent (15%) hold-back of final payment or in such amount as may be determined by Board policy shall not be released to a contractor until all work is certified as complete and satisfactory to the Council.
- 71) The Board may establish policies and procedures for the tender process.

CONFLICT OF INTEREST

- 72) Any person, who holds an office, including that of the Chief or Councillor, or employment with the Shuswap Indian Band, its departments or agencies, shall not use that office or employment for personal gain to the detriment of the interest of the Shuswap Indian Band.
- 73) It is recognized that the Shuswap Indian Band is a small First Nation community and that decisions that may be deemed to be a “Conflict of Interest” will arise from time to time. The Shuswap Indian Band has developed a “Conflict of Interest Disclosure Statement” in Schedule “A” of this Bylaw. All persons including Chief and Council, staff and members of Boards including the Treasury Board, shall complete the form in Schedule “A” when it is deemed that a decision could be or perceived to be in Conflict and as per the definitions for Personal Gain and Family relationships.
- 74) A person may avoid a conflict of interest by disclosing his or her interest prior to the making of a decision and by not participating in the decision or where non-participation will not allow the Chief and Council or governing board e.g. the Treasury Board, to constitute a quorum, then all participants deemed to have a conflict or are perceived to have a conflict with the decision, shall complete a Schedule “A” form. The Schedule “A” form shall be a part of the decision documentation, e.g. Minutes of Meetings, Band or Board Resolutions etc. and be part of the public record.
- 75) If a person violates the conflict of interest provision Council will, subject to the Shuswap Indian Band Personnel Policy, suspend the employee or official from all privileges and benefits of office or employment for a period up to three (3) week.
- 76) The Board may develop detailed conflict of interest rules, which shall govern the administration of financial affairs of the Shuswap Indian Band, which shall take effect upon approval by Council. These detailed conflict of interest rules would support those included under this bylaw.
- 77) An appeal of suspension or dismissal can be made to the Band Council.

AGREEMENTS

- 78) The Council may approve on behalf of the Shuswap Indian Band such agreements of funding arrangements with federal and provincial governments or with any other party for the provision of funding for the Shuswap Indian Band, its agencies and other bodies.

- 79) Where an agreement or arrangement has been approved under Section 73 and on the recommendation of the Treasury Board, the Council may approve an alternative arrangement for the management of money received.

FISCAL YEAR

- 80) The fiscal year of the Shuswap Indian Band Government shall be from April 1st of each year to March 31st in the following year.

AUDIT

- 81) Council shall appoint by resolution an auditor or auditors annually to audit the books and records of the Shuswap Indian Band.
- 82) The auditor or auditors shall be a member of a recognized professional accounting association.
- 83) The auditor or auditors shall report to the Treasury Board.
- 84) The audit shall include all transactions involving the Shuswap Indian Band funds.
- 85) The auditor or auditors are entitled to access:
- a) All books, records, accounts and vouchers;
 - b) Information from any department or agency manager necessary for the completion of the audit;
 - c) Council resolutions and bylaws;
 - d) Administration and financial regulations;
 - e) Agreements, contracts and any other related documents.
- 86) The audit shall be in accordance with generally accepted accounting procedures and shall include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Shuswap Indian Band.
- 87) The Board shall provide the auditors with instructions concerning the annual audit and, through the AOTB.

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- 88) After the review of the annual audit by the Board, the auditor or auditors shall present the annual audit to the Council upon completion of the annual audit.
- 89) The audited financial statement(s) shall be accepted by the Council by resolution at a meeting and signed by the Chief and such other person as designated by the Council.

PUBLIC

- 90) Upon receipt of the auditor's report by Council, copies of the report shall be posted in such public places as determined by Council.
- 91) Any member of the Shuswap Indian Band may inspect The Shuswap Indian Band financial statements during regular office hours and may by him or through his agent, at his own expense, make a copy of the report or any part of it. Chief and Council may set a fee for the production of and distribution of the Band's financial statements.

AMENDMENTS AND REPEAL

- 92) A decision made in contravention of this bylaw is voidable by vote of a majority of Council.
- 93) Amendment or repeal of this bylaw shall be in the manner stipulated by the Indian Act.

This bylaw is hereby enacted by Council at a duly convened meeting at the Shuswap Indian Band administration office, held on _____ day of _____, 200____.

Chief

Councillor

Councillor

SCHEDULE "A"

Declaration of Conflict of Interest

____(Name)_____ hereby declares that he/she is a person holding a position of influence with the governing and administrative organization of the Shuswap Indian Band.

My position within the Shuswap Indian Band organization is __ (title or position) _____.

My participation in the following decision (describe decision and potential value):

Motion or Resolution if applicable:

I further declare that the above noted decision may be deemed to be or be perceived to be in conflict with my personal interests or the personal interests of those within the family as describe as follows:

“Family” shall mean a spouse, including a common law spouse, children, parent, brother, sister, father-in-law, mother-in-law, uncle, aunt, grandparent, son-in-law, daughter-in-law, and also includes any relative permanently residing in the person’s household.

I further declare, that with the above consideration, I have participated in the above noted decision and confirm that I have made my decision:

- In the context of my professional responsibility as associated with my position within the Shuswap Indian Band;
- In the interest of the Shuswap Indian Band in general;
- And not for personal gain for me or for those within my family as described above.

Declared on this _____ day of _____, 200_, at the Shuswap Indian Band office, located on the Shuswap Indian Band Reserve, I.R. #0.

Signature of Person Declaring: _____

Witness by: _____