

Registration
SOR/2007-245 November 1, 2007

FIRST NATIONS FISCAL AND STATISTICAL MANAGEMENT ACT

Local Revenue Management Implementation Regulations

P.C. 2007-1670 November 1, 2007

Her Excellency the Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to section 56 of the *First Nations Fiscal and Statistical Management Act* ([see footnote a](#)), hereby makes the annexed *Local Revenue Management Implementation Regulations*.

**LOCAL REVENUE MANAGEMENT IMPLEMENTATION
REGULATIONS**

INTERPRETATION

Definitions	1. (1) The following definitions apply in these Regulations.
"Act" « <i>Loi</i> »	"Act" means the <i>First Nations Fiscal and Statistical Management Act</i> .
"financial institution" « <i>institution financière</i> »	"financial institution" means the First Nations Finance Authority or any person — including a bank, credit union or <i>caisse populaire</i> — or trustee with whom local revenues are deposited or by or through whom local revenues are invested.
"law-making delegate" « <i>délégué</i> »	"law-making delegate" means a person or body to which the council of a first nation has, under paragraph 5(1)(f) or 9(1)(b) of the Act, delegated any of the council's powers to make laws.
"local services capital infrastructure" « <i>infrastructure destinée à la prestation de services locaux</i> »	"local services capital infrastructure" means improvements and works that are, or are intended to be, used wholly or in part for the delivery of programs or services on a reserve, including buildings, water, sewer, gas, electrical and communications works and roads, walkways and other transportation systems.
"manager" « <i>administrateur</i> »	"manager" means a person appointed under subsection 2(1).
"record" « <i>document</i> »	"record" includes a computer file, computer database, photographic or graphical representation, sound recording, film and videotape.
"tax administrator" « <i>administrateur fiscal</i> »	"tax administrator" means the person responsible for the administration of a first nation's property taxation laws.
"third-party local services agreement" « <i>accord de services locaux</i> »	"third-party local services agreement" means an agreement, lease, instrument granting a right-of-way or easement, permit or other instrument to which a first nation or Her Majesty in right of Canada is a party (a) that provides, wholly or in part, for the delivery of programs or

services; and

(b) under which payments may be made from local revenues.

Indian Act definitions (2) Unless the context otherwise requires, words and expressions used in these Regulations and not defined in them or in the Act have the same meaning as in the *Indian Act*.

MANAGER

Board to appoint manager 2. (1) Subject to subsection (2) and section 3, if the Board requires a first nation to enter into a co-management arrangement or assumes third-party management and appoints a person who is not an employee of the Board to act as an agent of the Board for the purposes of the co-management arrangement or third-party management, the scope of the authority of the person shall be set out in writing and a copy provided to the council of the first nation without delay.

Qualification (2) A member of the board of directors of the Board shall not be appointed as a manager.

Limitation on authority 3. A manager shall not
(a) give an order under paragraph 52(2)(e) of the Act;
(b) act in the place of the council of the first nation under paragraph 53(2)(a) of the Act; or
(c) assign rights or interests under paragraph 53(2)(d) of the Act.

ACCESSING INFORMATION

Request for information 4. A request for information referred to in section 54 of the Act may be made orally or in writing, by the Board or a manager, to the council of the first nation or to any of its councillors, employees or law-making delegates.

ACCESS TO RECORDS AND DOCUMENTS

Access to records and documents 5. (1) At any time after receipt of a notice under subsection 52(1) or 53(1) of the Act and while a co-management arrangement or third-party management is in effect, the first nation shall, without delay, on receipt of an oral or written request, give the Board or a manager access to, and copies — or the opportunity to make copies — of, all records and documents respecting the first nation's local revenue laws and their administration, including records and documents relating to
(a) communications between the first nation and the First Nations Tax Commission, the First Nations Finance Authority or the Minister;
(b) assessments for the calculation of local revenues;
(c) the levying of taxes under property taxation laws and the collection of local revenues;
(d) budgets for the expenditure of local revenues;
(e) reserve lands, interests in reserve lands, or rights to occupy, possess or use reserve lands, that are subject to local revenue laws;
(f) the first nation's local revenue account and all expenditures of local revenues, including audit reports required under section 14 of the Act;
(g) any deposit, loan or investment, or any other agreement with a financial institution, relating to local revenues;
(h) representations made under paragraph 6(3)(c) of the Act;
(i) the enforcement of local revenue laws;
(j) agreements and communications between the first nation and the

First Nations Finance Authority, including those related to the borrowing of money from the Authority;

(k) agreements and communications between the first nation and any law-making delegate relating to the delegation of law-making powers;

(l) requests made, or reviews carried out, under section 33 of the Act, including any agreements and communications with the First Nations Tax Commission in respect of the request or review;

(m) each program or service that is funded wholly or in part out of local revenues;

(n) third-party local services agreements;

(o) local services capital infrastructure;

(p) any other agreements, obligations, commitments or other arrangements under which the first nation is or may become obligated to expend local revenues or is or may become entitled to receive local revenues;

(q) council meetings, membership meetings or taxpayers meetings at which local revenue laws are discussed;

(r) employment contracts of persons involved in the making or administration of any local revenue law or the management of local revenues; and

(s) drafts of records or documents referred to in any of paragraphs (a) to (r).

Copies

(2) A first nation shall, without delay, on receipt of any records or documents referred to in subsection (1) that are produced or obtained while a co-management arrangement or third-party management is in effect, provide a copy of the records or documents to the Board or a manager.

Third-party records or documents

6. (1) At any time after the Board gives a notice under subsection 52(1) or 53(1) of the Act and while a co-management arrangement or third-party management is in effect, the Board or a manager may, either orally or in writing, request copies of records or documents referred to in section 5 from any person who possesses or has control over them, including

(a) the First Nations Tax Commission;

(b) the First Nations Finance Authority;

(c) a financial institution;

(d) a law-making delegate;

(e) any party to a third-party local services agreement;

(f) any person who manages or controls local services capital infrastructure;

(g) the first nation's auditor; and

(h) the person in charge of

(i) the Reserve Land Register, the Surrendered and Designated Lands Register, the First Nations Land Register or any register maintained by or for the first nation in which reserve lands, interests in reserve lands, or rights to occupy, possess or use reserve lands are recorded, or

(ii) any provincial land registry in which reserve lands or interests in reserve lands are recorded.

First nation assistance

(2) The first nation shall cooperate with and assist the Board and a manager as required to enable them to obtain copies of records or documents

	under subsection (1).
Explanations	7. (1) If a first nation is required to provide records or documents under section 5, a councillor, employee, law-making delegate or representative of the first nation shall, at the request of the Board or a manager, made orally or in writing, provide an explanation of the records or documents.
Requirement to obtain information	(2) If a councillor, employee, law-making delegate or representative of the first nation is not able to provide the requested explanation, he or she shall, without delay, make every effort to obtain any information, records or documents that are necessary to provide the explanation.
Maintenance and return of records or documents	8. When the Board or a manager obtains records or documents from a first nation, or creates records or documents on behalf of a first nation, while a co-management arrangement or third-party management is in effect, the Board or the manager (a) shall maintain care and control over them until they are returned to the first nation; (b) may make and retain copies of them; and (c) subject to paragraph (b), shall return them to the first nation, without delay, on termination of the co-management arrangement or third-party management.
First nation access to records or documents	9. On receipt of a written request from the council of the first nation, the Board or a manager shall allow a representative of the council to inspect and copy records or documents referred to in section 8, on any terms and conditions that will ensure the security and safekeeping of the records or documents.

CO-MANAGEMENT

Notice to financial institution	10. (1) If an order is made under paragraph 52(2)(e) of the Act requiring that cheques be co-signed by a manager, the Board or the manager shall provide a copy of the order to each financial institution with whom the first nation has any ongoing financial arrangements.
Revocation of order	(2) If an order referred to in subsection (1) is revoked by the Board, the Board or a manager shall provide a copy of the revocation to each financial institution referred to in that subsection.

THIRD-PARTY MANAGEMENT

Notice to financial institutions	11. (1) If the Board assumes third-party management, the Board or a manager shall provide, to each financial institution with whom the first nation has any ongoing financial arrangements, a copy of the notice of assumption of third-party management given by the Board to the council of the first nation.
Signatories	(2) The Board or a manager may, by written notice to a financial institution, authorize one or more individuals to act as signatory for a manager for the purposes of subsection (1) and establish the number of signatories required for any purpose.
Notice of termination of third-party	(3) If third-party management is terminated by the Board, the Board or a manager shall provide a copy of the notice of

management	termination to each financial institution referred to in subsection (1).
Application of Act and regulations to Board	12. For greater certainty, nothing in these Regulations shall be interpreted to exempt the Board, while acting in the place of the council of a first nation under subsection 53(2) of the Act, from complying with any of the requirements applicable to the council of the first nation under the Act and any regulations made under it.

CERTIFICATION POWERS OF THE BOARD

Granting of certificate	13. The implementation of a co-management arrangement or third-party management in respect of a first nation does not preclude the Board from granting a certificate in respect of the first nation under subsection 50(3) of the Act.
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COMMUNICATIONS

Sharing of information	14. The Board or a manager may disclose any records, documents and other information, including records, documents and information obtained under these Regulations, that the Board or manager considers necessary to carry out co-management or third-party management effectively or to fulfil the objectives set out in section 15.
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Cooperative management	15. (1) If the Board has required a first nation to enter into a co-management arrangement or has assumed third-party management, it shall endeavour to work cooperatively with the council of the first nation, the tax administrator and any employee of the first nation designated by the council, to enable the first nation and its administration to resume full responsibility for the management, control and administration of all local revenue laws.
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No reduction of Board authority	(2) Subsection (1) shall not be construed to limit or otherwise affect the powers and discretion of the Board in respect of the implementation of a co-management arrangement or of third-party management.
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REMEDIAL MANAGEMENT PLAN AND REPORTS

Remedial management plan	16. (1) Within 60 days after requiring a first nation to enter into a co-management arrangement or assuming third-party management, the Board or a manager shall review the available information relating to the first nation's local revenues and local revenue laws, and provide the council of the first nation with a remedial management plan to address the matters that contributed to the assumption of co-management or third-party management.
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Content of plan	(2) A remedial management plan may include a debt reduction plan, a budget or an expenditure plan.
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Continuing need	(3) A remedial management plan shall indicate whether the Board is of the opinion that there is a continuing need for a co-management arrangement or third-party management.
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Report giving advice	17. The Board shall provide a written report of the results of each
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	review required under subsection 53(5) of the Act.
Final report	<p>18. (1) Within six months after the termination of third-party management, the Board or a manager shall provide the council of the first nation with a written report that includes</p> <p>(a) a summary of any third-party management activities not previously reported on;</p> <p>(b) a summary or copy of all local revenue laws enacted;</p> <p>(c) a summary or copy of all agreements that the Board has entered into under subsection 53(2) of the Act while acting in the place of the council of the first nation;</p> <p>(d) a copy of the most recent local revenue account audit provided to the Board, and a statement of the revenues deposited to, and any expenditures from, the local revenue account, from the last day covered by the audit to the most recent date practicable; and</p> <p>(e) an update to the remedial management plan.</p>
Report	<p>(2) Within six months after the termination of co-management without assuming third-party management, the Board or a manager shall provide the council of the first nation with a written report that includes</p> <p>(a) a summary of any co-management activities not previously reported on; and</p> <p>(b) an update to the remedial management plan.</p>
Meeting to review reports	<p>19. (1) Within 45 days after delivery to the council of the first nation of the remedial management plan or of a report provided under section 16 or 18, respectively, the council of the first nation may deliver a written request to the Board or a manager to meet to review the plan or report.</p>
Time limit for meeting	<p>(2) Within 30 days after the date of the acknowledgement of receipt of the request, the Board or a manager shall meet with the council to review the plan or report and respond to questions about it.</p>
FEES FOR MANAGEMENT SERVICES	
Records of fees and disbursements	<p>20. (1) The Board shall maintain records of disbursements made and of fees paid or payable by the Board to a manager and other persons in the course of implementing a co-management arrangement or third-party management.</p>
Invoices	<p>(2) The Board shall invoice the first nation, not more than once each month, for the amount of fees and disbursements that have been invoiced to the Board since the date of the last invoice rendered to the first nation under this subsection, plus 10% of that amount.</p>
Final invoice	<p>(3) After termination of a co-management arrangement or third-party management, the Board may deliver a final invoice to the first nation within nine months after the date of the notice of termination is given under subsection 52(3) or 53(6) of the Act, as the case may be.</p>
Form of invoices	<p>(4) Each invoice sent to the first nation shall set out the nature</p>

and amounts of the fees and disbursements and shall include a copy of any invoices received by the Board from a manager or the other persons referred to in subsection (1).

NOTICES AND ORDERS

- Written notices **21.** (1) The following notices and orders given by the Board shall be in writing:
- (a) a notice given to the council of a first nation under subsection 52(1) of the Act or under subsection 52(3) of the Act;
 - (b) an order made under paragraph 52(2)(e) of the Act and any revocation of the order;
 - (c) a notice given to the First Nations Finance Authority and the First Nations Tax Commission under subsection 52(5) of the Act;
 - (d) a notice given to the council of a first nation under subsection 53(1) of the Act or under subsection 53(6) of the Act;
 - (e) a notice given to the Minister under subsection 53(1) of the Act; and
 - (f) a notice given to the First Nations Finance Authority and the First Nations Tax Commission under subsection 53(8) of the Act.
- Copy to the Minister (2) The Board shall provide the Minister with a copy of a notice given under subsection 53(6) of the Act.
- Copy of notice to Authority and Commission **22.** (1) If the Board gives a notice to the council of the first nation under subsection 52(1) of the Act requiring a co-management arrangement or a notice under subsection 52(3) of the Act terminating a co-management arrangement, it shall provide a copy of the notice to the First Nations Finance Authority and First Nations Tax Commission.
- Copy of notice to Authority and Commission (2) If the Board gives a notice to the council of the first nation assuming third-party management under subsection 53(1) of the Act or terminating third-party management under subsection 53(6) of the Act, it shall provide a copy of the notice to the First Nations Finance Authority and the First Nations Tax Commission.

DELIVERY OF RECORDS OR DOCUMENTS

- Methods of delivery **23.** (1) Records, notices, reports, copies, orders, invoices, requests or any other documents referred to in these Regulations may be delivered personally, or by courier, registered mail, fax or e-mail.
- Personal delivery (2) A record, notice, report, copy, order, invoice, request or any other document referred to in these Regulations may be delivered personally
- (a) to the Board or a manager, by leaving it with
 - (i) an employee of the Board or a member of the board of directors of the Board, at the office of the Board at 100 Park Royal South, Suite 905, West Vancouver, B.C., V7T 1A2,
 - (ii) an employee of the Board in any other location, if the employee is acting in the course of his or her duties, or
 - (iii) the manager, if the manager is acting in the course of his or her duties;
 - (b) to a first nation or its council, by leaving it with the person apparently in charge, at the time of delivery, of the administrative

office of the first nation, or with the first nation's legal counsel; and
(c) to a financial institution, by leaving it with the person apparently in charge, at the time of delivery, of its head office or of a branch office of the institution, with an officer or director of the institution or with the institution's legal counsel.

Time of delivery

(3) A record, notice, report, copy, order, invoice, request or any other document referred to in these Regulations shall be considered to have been delivered

(a) if delivered personally, at the time that personal delivery is made;

(b) if sent by registered mail or by courier, at the time that the acknowledgement of its receipt is signed;

(c) if sent by fax, on the day indicated on the confirmation of transmission; and

(d) if sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been delivered to the recipient's e-mail address.

COMING INTO FORCE

Coming into force

24. These Regulations come into force on the day on which they are registered.

N.B. The Regulatory Impact Analysis Statement for these Regulations appears following SOR/2007-239, [First Nations Tax Commission Review Procedures Regulations](#).

[Footnote a](#)

S.C. 2005, c. 9