

# Listuguj Mi'gmaq Government Order-In-Council



Chronological no.: 2017	Subject: Finance Committee	Originated by:
The Council of the Listuguj Mi'gmaq Government		District Gespe'gewa'gi
Date of duly convened meeting	D   M   Y 1 2   1 0   1 2	Province Gepeg

- WHEREAS The Listuguj Mi'gmaq Government wishes to establish an administrative structure which will manage the funds of the LMG; and
- WHEREAS The Listuguj Mi'gmaq Government wishes to establish a Finance Committee following the roles and responsibility so described in Part Five (5) of the draft Financial Administration By-Law; said draft by-law attached to this OIC; and
- WHEREAS Until the Day to Day administration structure is formally constituted, the said Finance Committee may deal with other Administrative matters brought forward to it by the Chief, Councillors, and Directors.

**Be It Resolved That:**

The LMG establish a Finance Committee have the roles and responsibility stated in the draft Financial By-laws and the referral of administrative matters to it; and

**Be It Further Resolved that:**

The following individuals be appointed to the Finance Committee: Dean Vicaire, Chief - Darcy Gray, Chief Councillor - Calvin Barnaby, Councillor – Delphine Metallic, Councillor - Sherri Morrison, Administrator - Robert Smith, Director of Finance (retired) - Charlotte Simon, Comptroller - Fred Vicaire, Financial Analyst - Other Councillor, Ex- Officio

**Be It Further Resolved that:**

The appointment of the two councillors position on said committee may be rotated among Councillors as Council deems fit.

Moved: **Derek Barnaby**  
 Seconded: **Wanda Metallic**  
 Abstain: -  
 Opposed: -  
 Status:  Passed  Defeated  Tabled

Quorum 7

(Chief)  
  
 (Councillor)  
  
 (Councillor)  
  
 (Councillor)  
  
 (Councillor)  
  
 (Councillor)  
  
 (Councillor)  
  
 (Councillor)

LISTUGUJ FIRST NATION (FEB 8, 2012)

FINANCIAL ADMINISTRATION BY-LAW

BY-LAW NO. \_\_\_\_

By-law regulating the management and control of funds and establishing the administrative structure of the Listuguj Mi'gmaq Government which manages the funds.

Table of Contents

**PART 1** ..... 3  
TITLE ..... 3

**PART 2** ..... 3  
DEFINITIONS ..... 3

**PART 3** ..... 4  
APPLICATION ..... 4

**PART 4** ..... 5  
COUNCIL ..... 5  
    *Role of Council* ..... 5  
    *Duties* ..... 6  
    *Alternative Arrangements for Funding Agreements* ..... 6

**PART 5** ..... 6  
FINANCE COMMITTEE ..... 6  
    *Role of the Committee* ..... 6  
    *Appointment of Committee* ..... 7  
    *Terms of Office* ..... 7  
    *Election and Role of the Chair* ..... 8  
EXECUTIVE DIRECTOR ..... 8  
    *Role of Executive Director* ..... 8  
DIRECTOR OF FINANCE ..... 9  
    *Role of Director of Finance* ..... 9  
    *Appointment of Director* ..... 9

**PART 6** ..... 10  
FISCAL YEAR ..... 10  
ANNUAL BUDGET ..... 10  
ANNUAL AUDIT ..... 10  
    *Public Access* ..... 11

**PART 7** ..... 11  
FINANCIAL MANAGEMENT: DEPOSITS ..... 11  
    *General Requirements* ..... 11  
    *Bank Accounts* ..... 12  
FINANCIAL MANAGEMENT: RESERVE FUND ..... 12  
    *Reserve Fund* ..... 12

FINANCIAL MANAGEMENT: EXPENDITURES.....12  
*Conditions of Expenditures*.....12  
*Authorized Signatories*.....13  
*Expenditure Procedures*.....13  
*Petty Cash*.....14  
*Travel Expenses*.....14  
FINANCIAL MANAGEMENT: LOANS, BORROWING AND DEBTS .....14  
*Loans* .....14  
*Borrowing and Credit Powers of Council*.....15  
*Conditions of Borrowing* .....15  
*Collection of Debts* .....16  
FINANCIAL REPORTING: INVOICING.....16  
AWARDING OF CONTRACTS.....16  
*Tendering Requirements*.....16  
**PART 8**.....18  
CONFLICTS OF INTEREST .....18  
*Definitions*.....18  
*General Conflict of Interest Rule*.....18  
*Disclosure by Members of Council and the Committee*.....19  
*Disclosure by Employees*.....19  
*Liability to Account*.....19  
*Suspension or Dismissal*.....19  
**PART 9**.....20  
NON-COMPLIANCE .....20  
**PART 10**.....20  
AMENDMENTS AND REPEAL.....20  
**PART 11**.....20  
GENERAL .....20

**WHEREAS** the *Indian Act* provides that a Council may, subject to the approval of the Minister of Aboriginal Affairs and Northern Development, make by-laws for the following purposes:

- (a) the appropriation and expenditure of moneys of the Community to defray its expenses;
- (b) the appointment of officials to conduct the business of Council; and
- (c) any matter arising out of or ancillary to the exercise of the powers described in subsection 83(1) of the Act;

**AND WHEREAS** the Council of Listuguj has determined that it is desirable and necessary that a financial administration by-law be established for the purposes set out in subsection 83(1) of the Act;

**NOW THEREFORE** the Council of the Listuguj Mi'gmaq Government, at a duly convened meeting, enacts the following by-law:

PART 1

TITLE

1. This By-law may be called the "Listuguj Mi'gmaq Government Financial Administration By-law".

PART 2

DEFINITIONS

2. In this By-law,

"**Act**" means the *Indian Act*;

"**annual audit**" means an audit by an auditor of the Listuguj Mi'gmaq Government consolidated financial statements for the preceding fiscal year according to generally accepted auditing standards;

"**annual budget**" means the revenues and expenditures projected and approved by Council under section 33 for the next fiscal year and includes any amendments to the annual budget made under section 32;

"**annual audited financial statements**" means the consolidated financial statements audited by an auditor as part of conducting the annual audit;

"**auditor**" means a person or company who is designated as a chartered accountant, certified general accountant or a certified Aboriginal finance manager who is a member in good standing with the registered accounting association that regulates his designation or, in the opinion of the Finance Committee, possess sufficient educational knowledge to justify the duties of the position;

"**Community**" means the members of Listuguj and its assets as defined by the Indian Act;

"**Executive Director**" means the employee or contractor appointed by resolution as the administrator of the Listuguj Mi'gmaq Government under section 22;

"**Finance Committee**" means the committee of the Listuguj Mi'gmaq Government established pursuant to section 11 of this By-law;

"**capital works**" means major physical assets owned or controlled by the Community, including roads, bridges, utilities, water supply and septic systems, ditches and water spillways, buildings, waste control facilities, land, landscaping and fencing;

"**Director of Finance**" means the person appointed under section 24;

"**Council**" means the elected members of the Listuguj Mi'gmaq Government (LMG) which includes the Chief of the Government;

“**directorate**” means an administrative division or agency of the Community established from time to time and includes

- (a) internal organizational units of the directorate,
- (b) any board, tribunal, commission or committee, and
- (c) any corporate entity controlled by the Community, including a partnership;

“**employee**” includes, for the purposes of this By-law, any contractors who administer, manage or control Community funds;

“**Expenditure By-law**” means a by-law enacted pursuant to section 84 of the Act;

“**community funds**” means all moneys received and managed by Council, or its designate, for the use and benefit of Listuguj, including all revenues, grants, contributions, loans, earnings from business enterprises and, unless otherwise indicated in this By-law, but does not include

- (a) money received by Listuguj on behalf of an individual, corporate entity or partnership, and
- (b) any money received and managed by Council for which Council has approved an alternative arrangement under to section 8 of this By-law;

“**Listuguj**” means the community, being a band represented by the Listuguj Mi’gmaq Government, as defined under the *Indian Act*;

“**LMG**” means, the Listuguj Mi’gmaq Government;

“**fiscal year-end**” means the date specified in section 26.

“**funding agreement**” means any written contract between Listuguj and another party or parties, pursuant to which money is to be paid to Listuguj;

“**General Account**” means any bank account in the name of Listuguj and created pursuant to section 47;

“**resolution**” means a decision of Council at a duly held Council meeting and recorded in writing;

### PART 3

#### APPLICATION

3. This By-law governs the management and control of Listuguj funds and the administrative organization of the LMG to manage and control said funds.

4. This By-law applies to Council and all departments and directorates in receipt of Listuguj funds.

PART 4

COUNCIL

**Role of Council**

5. Council must conduct the business of Listuguj in a manner that ensures sound financial management by, among other things, carrying out the following duties and responsibilities:
- (a) ensuring that the annual budget of the LMG does not have expenditures exceeding revenues;
  - (b) planning and budgeting financial and other resources for local services and capital works projects;
  - (c) setting policies and procedures to safeguard the resources of Listuguj and maximize the well-being of its members;
  - (d) ensuring Council and all employees of the LMG have full financial accountability at all times to all members of Listuguj;
  - (e) ensuring the LMG meets all financial obligations with third parties;
  - (f) ensuring all investments in financial instruments are made in accordance with prudent investor standards;
  - (g) overseeing the work of all employees of the LMG, through the Executive Director, and ensuring that all employees of the LMG who manage and control community funds are
    - (i) responsible for maintaining accurate financial records, and
    - (ii) qualified for the position to which they are appointed by LMG's administrative services;
  - (h) permitting access by all Listuguj members, under the supervision of Council or its designate, to Listuguj by-laws, annual budgets, annual audited financial statements and annual audit reports of the LMG;
  - (i) ensuring that all financial records of the LMG, including computer files, are kept in the administration office in a secure and safe condition, and are not removed from the office without the authority of Council, such authority to be evidenced by resolution; and
  - (j) ensuring the sale of any assets owned by Listuguj is for no less than fair market value.

- (k) ensuring any OIC presented to Council, that has financial implications on the community, the Council shall first obtain the recommendations of the Finance committee before any decisions are made.

### Duties

- 6. Each member of Council must, in exercising his powers and performing his functions under this By-law,
  - (a) act honestly and in good faith and in the best interests of Listuguj; and
  - (b) exercise the care, diligence and skill of a reasonably prudent person.

### Alternative Arrangements for Funding Agreements

- 7. Council may, by resolution, approve any funding agreement.
- 8. Notwithstanding the provisions of this By-law, Council may by resolution approve an alternative arrangement other than the provisions of this By-law for the management of money received pursuant to the terms of a funding agreement, if the terms of the funding agreement require alternative arrangement.

## PART 5

### FINANCE COMMITTEE

#### Role of the Committee

- 9. The Committee must ensure the control and management of Community funds in a manner that is consistent with prudent financial management practices by, among other things, carrying out the following duties and responsibilities:
  - (a) manage and control all transactions of funds, including the receipt, collection, expenditure and disbursement of LMG funds;
  - (b) administer and supervise the compilation and preparation of information for the annual budget;
  - (c) present the annual budget to Council for its review and approval by resolution;
  - (d) ensure the completion and of an annual audit and presentation of the audit to Council for its review and approval by resolution;
  - (e) administer and supervise the financial records and reporting systems of the LMG;
  - (f) ensure financial compliance with all contracts and funding agreements entered into by Council or any department or directorate, and report immediately any non-compliance to Council;

- (g) report to Council on financial matters;
  - (h) provide advice to Council on financial matters;
  - (i) develop and present a list of candidates to Council for the position of Director of Finance;
  - (j) supervise and oversee the role and responsibilities of the Director of Finance; and
  - (k) oversee all other matters relating to the financial affairs of the LMG.
10. The Committee may prescribe any requirements for the form and content of the financial records and the accounting systems of the LMG that it deems necessary.

### **Appointment of Committee**

11. Council hereby establishes a Finance Committee.
12. Council shall, by resolution, appoint at least five (5) members to the Committee and those members must include
- (a) the Executive Director;
  - (b) the Director of Finance
  - (c) at least two (2) members of Council; and
  - (d) the Chief of the Listuguj Mi'gmaq Government.

### **Terms of Office**

13. Council must, by resolution, appoint the Executive Director to be a member of the Committee for as long as he/she is the Executive Director.
14. Council must, by resolution, appoint the members of the Committee prescribed under paragraphs 12(d) and (e) for a term of office that is the same duration as a term of office for a member of Council.
15. A member of the Committee may be removed from office
- (a) by the chair if the member has missed three (3) consecutive scheduled meetings of the Committee;
  - (b) by a majority of Council and with the recommendation of the chair; or
  - (c) by a unanimous vote of Council supported with a Council resolution.



16. If any position on the Committee is vacated for any reason, including under section 15, then Council must appoint, by resolution, the members needed to fill any vacancies in the Committee that result from that change.

### **Election and Role of the Chair**

17. The Director of Finance shall serve as chair of the Committee.
18. The term of office for the position of chair shall be two (2) years and a person may serve as a chair for one (1) or more consecutive terms.
19. If the chair resigns, the Committee must elect from its members one (1) other person to serve as chair for the balance of the term remaining.
20. The chair must
- (a) supervise and direct the work of the Committee;
  - (b) undertake administrative duties as necessary to oversee and implement the work of the Committee; and
  - (c) preside at meetings of the Committee.

### **EXECUTIVE DIRECTOR**

#### **Role of Executive Director**

21. (1) The Executive Director shall act as the senior administrative officer of the Committee and must assist the Committee in carrying out its duties.
- (2) The duties of the Executive Director include
- (a) ensuring the creation and maintenance of adequate records of Committee minutes, resolutions, decisions and other proceedings;
  - (b) maintaining security of finances and financial documents by
    - (i) establishing safe storage in security boxes or safes,
    - (ii) establishing secure storage with security codes and locks on files, cash and valuable documents, and
    - (iii) ensuring no more than two (2) people, in addition to himself, have knowledge of the security codes, combinations or possession of keys to locked files;
  - (c) monitoring all contracts and funding agreements entered into by Council or any department or directorate for financial compliance and reporting immediately any non-compliance to the Committee; and

- (d) completing any other task assigned by the Committee.
22. The Executive Director must be a member of Listuguj and not an elected member of Council.

## DIRECTOR OF FINANCE

### Role of Finance Director

23. The Director reports directly to the Committee and must
- (a) conduct the administration necessary to discharge the financial administration responsibilities of the Committee, including staff supervision;
  - (b) maintain records of all information required to facilitate the annual audit;
  - (c) compile and prepare information for the annual budget and any amended annual budget;
  - (d) administer and maintain adequate and timely financial records and reporting systems that record all financial transactions of the LMG, including but not limited to copies of all vouchers, financial statements, cancelled cheques and correspondence relating to the financial business and reporting systems;
  - (e) prepare and present to the Committee by the 20th day following each quarter, a financial statement for the previous quarter that includes a balance sheet and a statement of operations showing revenues and expenditures;
  - (f) receive, record and deposit, or administer the receipt, recording and deposit of all money received in a timely manner;
  - (g) ensure all accounts payable are paid in accordance with the procedures set out in this By-law;
  - (h) complete any other task assigned by the Committee; and
  - (i) ensure a detailed inventory of all community assets having a reasonable estimate of fair market value over one thousand dollars (\$1000.00).

### Appointment of Finance Director

24. The Committee must develop a list of at least three (3) potential candidates for the position of Finance Director and Council must, by resolution, appoint a person from the list.
25. Subject to the provisions of this By-law, the engagement and removal of any person as must be consistent with any personnel policies of the LMG.

PART 6

FISCAL YEAR

26. The financial year-end is March 31.

ANNUAL BUDGET

27. The Committee must prepare estimates of the projected revenues of the LMG for the purpose of preparing the annual budget.
28. Each department manager must prepare the department's annual budget and any amendments thereto for the operation of the department and must submit the budget and any amendments prepared to the Committee.
29. The Committee must prepare an annual budget and submit the annual budget to Council for consideration and approval by resolution.
30. Council is solely responsible for the approval of the annual budget for each fiscal year.
31. Council may, by resolution, direct amendments to the annual budget submitted by the Committee.
32. The annual budget becomes effective upon approval by Council, by resolution.
33. The annual budget must be made available during regular working hours for inspection by any member of Listuguj, and copies are to be provided to its members upon written request to the Director of Finance. Annual budgets may be viewed on-line at LMG's website.

ANNUAL AUDIT

34. Council must appoint annually, by resolution, an auditor to conduct the annual audit, and prepare an annual audit report.
35. The auditor reports to Council.
36. The auditor must be entitled to access any information or records that are held by or in the control of the LMG and are necessary to complete the annual audit, including but not limited to
- (a) all books, records, accounts and vouchers;
  - (b) any information held by or under the control of a department manager or any agent of the LMG that is necessary for the completion of the audit;
  - (c) all Council resolutions and by-laws; and
  - (d) any agreements, contracts, or related documents entered into or in control of the LMG, Council or any employee.

37. The annual audit must be conducted in accordance with generally accepted auditing standards, must include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Community, and must be completed in no more than four (4) months after the fiscal year-end.
38. The Director of Finance must provide any assistance to the auditor required for the completion of the annual audit.
39. After the review of the annual audited financial statements and annual audit reports by the Committee, the auditor must present the statements and reports to Council.
40. Council must consider and vote on the annual audited financial statements and annual audit reports at a duly held meeting of Council and, if approved, must be signed by the Chief and one (1) other person as designated by resolution.

#### **Public Access**

41. Once Council signs the annual audited financial statements and annual audit reports, the Director of Finance must post copies of the statements and reports in such public places or on-line as determined by Council, by resolution.
42. The Director of Finance must retain the signed annual audited financial statements and annual audit reports, and any member of Listuguj may
  - (a) inspect the statements and reports during regular office hours; and
  - (b) directly or through an agent, make a copy of the statements, the reports or any part thereof.

### PART 7

#### **FINANCIAL MANAGEMENT: DEPOSITS**

##### **General Requirements**

43. The Committee must ensure that all operating and savings accounts in the name of Listuguj are established at a chartered bank, trust company or credit union.
44. The Director of Finance must ensure the safekeeping of all LMG funds received and maintain a numbered receipt book for the funds.
45. Upon receipt of any Community funds, the Director of Finance must ensure the following procedures are followed
  - (a) stamp all cheques immediately upon receipt with a stamp that designates the moneys for deposit into a General Account;
  - (b) cause such funds to be deposited into a General Account within three (3) days of receipt; and

- (c) promptly issue a receipt in the correct amount to the payor.

### **Bank Accounts**

46. The Director of Finance must, under the supervision of the Committee, ensure that all bank accounts held in the name of Listuguj, into which all LMG funds must be deposited.
47. The Committee may authorize the Director of Finance to reallocate funds from one General Account to another Account for investment purposes or program and services delivery.
48. Funds in any Account must be administered by the Director of Finance.
49. The interest earned on LMG funds, must be paid to a General Account.

### **FINANCIAL MANAGEMENT: RESERVE FUND**

#### **Reserve Fund**

50. Subject to the provisions of any funding arrangement, Council may, by resolution, authorize the establishment of a reserve fund, using LMG funds called the "Reserve Fund" for the sole purposes of
- (a) constructing or upgrading capital works of the LMG;
  - (b) as requested by third party agreements

### **FINANCIAL MANAGEMENT: EXPENDITURES**

#### **Conditions of Expenditures**

51. Prior to any expenditure from a General Account, other than loans under section 60, the following conditions must be met:
- (a) funds for the expenditure must be allocated and approved as part of the annual budget; and
  - (b) the expenditure must be consistent with prudent cash management practices.

#### **Authorized Signatories**

52. Council may, by resolution, designate up to four (4) individuals to sign any purchase order, work order, cheque, agreement or other obligation to make an expenditure from LMG funds, provided that any obligation to make an expenditure must be signed by
- (a) at least one (1) councillor who is a member of the Committee; and
  - (b) the Director of Finance.

53. Council may, by resolution, designate the individuals described below to sign purchase orders and work orders for up to the following limits:

<u>Employee Title</u>	<u>Limit</u>
(a) department director	\$10,000
(b) Executive Director	\$50,000
(c) Director of Finance	\$50,000
(d) Finance Committee	\$250,000

### **Expenditure Procedures**

54. The Director of Finance may distribute LMG funds, among more than one General Account if he determines that it is administratively prudent to do so.
55. An individual designated under section 51 may sign a purchase order or work order up to the amount specified in section 51 provided the expenditure has been approved by Council as part of the annual budget.
56. The Committee must report to the Council no later than the last day of the month with the following information for the previous month:
- (a) a summary of revenues and expenditures for the previous month;
  - (b) a cumulative summary of year-to-date revenues and expenditures;
  - (c) bank balances for all General Accounts; and
  - (d) a quarterly cash flow report showing annual projections for each department and year-to-date revenues and expenditures of each department.
57. Council must ensure that all expenditures for the LMG meet the conditions set out in section 51.

### **Petty Cash**

58. Council may, by resolution, for all its departments, establish and maintain petty cash funds to a maximum of one thousand dollars (\$1000.00), provided that
- (a) the resolution designates an employee of the LMG who is not an authorized signatory of the LMG to be responsible for the petty cash funds;
  - (b) the designated employee must
    - (i) complete a voucher for each disbursement made,

- (ii) ensure that the total of disbursement vouchers plus the cash on hand equals the total amount of the fund,
- (iii) ensure reimbursement of the fund, in accordance with the vouchers, and
- (iv) charge each expense to the appropriate department account.

### **Travel Expenses**

59. All employees of the First Nation must submit travel expenses to the Executive Director for advance approval and the Director may approve such expenses, provided that the expenses are within the annual budget.
- (a) On an annual basis, the Committee must recommend allowable rates of travel expenses and conditions of reimbursement to Council for its consideration and approval, by resolution.
  - (b) Where there have been no recommended changes the previous existing rates and conditions shall apply until amended by resolution.

### **FINANCIAL MANAGEMENT: LOANS, BORROWING AND DEBTS**

#### **Loans**

60. Council may make, or allow to be made, a loan from LMG funds held in a General Account, provided that the following conditions have been met:
- (a) the loan must be for lease to own home programs
  - (b) Council must have pre-authorized the loan by resolution;
  - (c) funds for the loan must be allocated and approved as part of the annual budget; and
  - (d) the loan must be consistent with prudent cash management practices.
  - (e) terms and conditions of loans to be set by Council and by resolution.

#### **Borrowing and Credit Powers of Council**

61. Council may, by resolution, from time to time on behalf of Listuguj
- (a) borrow money in such manner and amounts, on such security, from such sources and upon such terms and conditions as they think fit,
  - (b) obtain credit for operational purposes,
  - (c) issue bonds, debentures, and other debt obligations either outright or as security for any liability or obligation of the LMG or any other person, and

- (d) mortgage, charge, whether by way of specific or floating charge, or give other security on the undertaking, or on the whole or any part of the property and assets, of the LMG, provided that the conditions of borrowing have been met.

### Conditions of Borrowing

- 62. Council must ensure that the following procedure have been met prior to passing an authorizing resolution under section 61:
  - (a) if the amount to be borrowed is less than five hundred thousand dollars (\$500,000) and if Council approves of the terms of the loan, then Council must pass a resolution authorizing the loan;
  - (b) if the amount to be borrowed is more than five hundred thousand dollars (\$500,000), then Council shall give notice to the members of Listuguj authorizing the loan, such notice shall be published in all local print, radio and electronic media.

### Collection of Debts

- 63. The Committee must seek, or cause to be sought, agreement for a payment plan from each person or entity that owes money to Listuguj.
- 64. The Committee must ensure that the repayment plan for any debt to Listuguj under one thousand dollars (\$1,000) is for a term no longer than twelve (12) months, unless otherwise approved by resolution.
- 65. The Committee must ensure that the repayment plan for any debt to Listuguj over one thousand dollars (\$1,000), other than the lease to own housing program, is for a term no longer than twenty-four (24) months, unless otherwise approved by resolution.
- 66. Council must, by resolution, determine the amount of interest to be charged.
- 67. Council may, by resolution, set off or designate the Committee to set off any amount owing to the LMG against any money owed to the debtor from the LMG.
- 68. For the purpose of this section, the LMG may offset debts, at each offset, up to the following maximum owed:
  - a) from remuneration, up to maximum of 30% per week
  - b) from other sources, the amounts owed under (five hundred) \$500, up to a maximum of 100%.
  - c) for amounts owed over (five hundred) \$500, up to a maximum of 50%.
- 69. The Director of Finance or his designate must render a statement of account to all debtors of the LMG on a quarterly basis.



### FINANCIAL REPORTING: INVOICING

70. No person may make a payment on behalf of the LMG for the performance 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 resolution; or
  - (b) by a person delegated to authorize such payment under this By-law.
71. The Executive Director or his designate must ensure that an invoice is rendered in a timely manner, for all work, goods or services that are provided for payment by the LMG.

### AWARDING OF CONTRACTS

72. Council may, by resolution, approve any contract on behalf of the LMG, provided the following conditions must be met:
- (a) any expenditure required in the contract must meet the requirements under section 51;
  - (b) the department manager responsible for managing the contract must recommend the contract to Council; and
  - (c) the Director of Finance must state to Council that the funds are available to pay the expenditure.
73. Council may, by resolution, designate the employees described below to approve any contract for up to the following limits, provided the requirements under paragraphs 72(a) and (c) are met in advance:

<u>Employee Title</u>	<u>Limit</u>
(a) department manager	\$10,500
(b) Executive Director	\$50,000.
(c) Director of Finance	\$50,000
(d) Finance Committee	\$250,000

### Tendering Requirements

74. The Executive Director may approve a capital works purchase up to fifty thousand dollars (\$50,000) without going to tender if the purchase was approved in the annual budget.

75. The Committee must put all capital works purchases over one hundred and fifty thousand dollars (\$150,000) to public tender if the Capital Department of the LMG does not do the work. If the Capital Department does not do the work, the Department shall seek bids from at least three (3) independent contractors for such purchases.
76. Council may, by resolution, approve the Committee to consider less than three (3) bids if less than three (3) bids are received by the tender closing date.
77. In emergency situations, telephone bids up to ten thousand dollars (\$10,000) may be accepted by a department manager providing a written confirmation follows from the bidder and a record of telephone bids is filed.
78. Invitations to tender must 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) the amount of any security deposit.
79. The tendering period is not to be less than five (5) working days, unless in an emergency situation.
80. All tenders are to be returned sealed and addressed to the LMG, clearly marked "Tendered for [*description of project*]", and the Director of Finance must record, or cause to be recorded, the time and date of receipt on the unopened envelope of tender.
81. All tenders received must be opened in public in the presence of the Executive Director and any department manager responsible for the tendering process.
82. The name of the bidder and the project, and the date and amount of the bid must be recorded.
83. The Committee must accept the lowest tender received unless Council has passed a resolution that
- (a) approves the other tender; and
  - (b) records the reasons why it is in the best interests of the Community to accept a higher tender.
84. Upon acceptance of a tender for the performance of work, goods, or services, the Committee must ensure that
- (a) a written contract is signed by the party accepting the contract and the LMG; and
  - (b) a copy of the written contract is kept as a record.

85. No disbursements or payment on any contract must be made without supporting documentation as required by any policies of the Committee.
86. The Director of Finance must retain a fifteen percent (15%) hold-back of final payment or such greater amount as may be determined by the Committee from all contractors until Council, by resolution, approves all work as complete and satisfactory.
87. The Committee may establish any further policies and procedures for the tender process as it considers necessary.

## PART 8

### CONFLICTS OF INTEREST

#### Definitions

88. The following definitions apply to this Part:
  - (a) "personal gain" means any financial benefit; and
  - (b) "family member" means 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.

#### General Conflict of Interest Rule

89. A person who is a member of Council or the Committee, or is otherwise employed by the LMG or one of its departments, must not use that office or employment for his own personal gain, the personal gain of his family member or to the detriment of the interests of the LMG.

#### Disclosure by Members of Council and the Committee

90. If a decision by Council or the Committee may result in a member of Council or the Committee, or his family member, receiving any personal gain, such member must make full and complete disclosure to Council or the Committee, as the case may be, of the details of the potential personal gain.
91. It shall be the duty of each member of Council and the Committee to disclose to Council or the Committee, as the case may be, any real or perceived personal gain of any other member or any other member's family member.
92. A member of Council or the Committee must disclose his potential personal gain and the potential personal gain of his family member in one of the following ways, whichever occurs first:
  - (a) at the meeting at which the Council or the Committee, as the case may be, first considers the decision that may result in the potential personal gain;

- (b) at the first meeting after the member becomes aware of the potential for the personal gain; or
  - (c) in writing to the Council or the Committee, as the case may be, as soon as the member becomes aware of the potential for the personal gain.
93. Immediately after the disclosure set out in paragraphs 92(a) and (b), the member in potential conflict must leave the meeting room and must not participate in any discussions or vote concerning the matter, and the minutes of the meeting must record the time that the member leaves and returns to the meeting room.
94. Despite section 93, the person who leaves the room may still be counted for the purpose of calculating any quorum requirement.

#### **Disclosure by Employees**

95. If an employee of the LMG or his family member may receive a personal gain from a contract with the LMG, he must disclose his interest to the Committee in writing and thereafter refrain from taking part in any discussion or decision about the awarding of the contract.

#### **Liability to Account**

96. Council may hold any person who fails to follow the proper procedure for disclosure and abstaining from involvement under this Part responsible to reimburse the Community for any personal gain that he or his family member received.

#### **Suspension or Dismissal**

97. If any person other than a member of Council or the Executive Director violates the conflict of interest provision, then subject to any personnel policy of the LMG, the Executive Director may
- (a) suspend the person; or
  - (b) dismiss the person from all privileges and benefits of office or employment.
98. Subject to any personnel policy of the LMG, any person who is suspended or dismissed under section 97, must have a right to appeal the dismissal or suspension to Council.
99. If the Executive Director violates the conflict of interest provision, then subject to any personnel policy of the LMG that applies to the Executive Director, Council must
- (a) suspend the Executive Director; or
  - (b) dismiss the Executive Director from all privileges and benefits of office or employment.

100. Subject to any personnel policy of the LMG that applies to the Executive Director, Council must, in a timely manner, give an Executive Director who is suspended or dismissed under section 99, an opportunity to speak to Council and explain any relevant circumstances.

**PART 9**

**NON-COMPLIANCE**

101. A decision made in contravention of this By-law is voidable by vote of a majority of Council.

**PART 10**

**AMENDMENTS AND REPEAL**

102. Amendment or repeal of this By-law must be made by a by-law enacted by Council.

**PART 11**

**GENERAL**

103. In this By-law, any words in the singular include the plural and words in the plural includes the singular and the masculine includes the feminine and neuter where the context requires.
104. If any provision of this By-law is held to be invalid, void, voidable or unenforceable for any reason, then the particular provision will be deemed severed from the remainder of this By-law and all remaining provisions of this By-law must remain in full force and effect.

**THIS BY-LAW IS HEREBY DULY ENACTED** by the Council of the Listuguj Mi'gmaq Government, on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at Listuguj, in the Province of Quebec, Mi'gmaq Territory of Gespe'gewa'gi.

A quorum of Council consists of (7) seven members of Council.