



## Notes on the FNTC Expenditure Law Standards

The following document includes excerpts from the FNTC Expenditure Law Standards along with explanatory notes. It is recommended that you read *Standards for First Nation Expenditure Laws* in its complete form before you review these notes.

### S.1 Expenditure Exclusions

1. (a) The Law must provide for local revenues to be expended only on local services and, without limitation, must not provide for
  - (i) per capita distributions; or
  - (ii) expenditures relating to any commercial, for-profit, enterprise undertaken by or on behalf of the First Nation, including without limitation by a corporation in which shares are held by or for the benefit of the First Nation.
- (b) Despite subparagraph (a)(ii), the Law may provide for an expenditure to a corporation referred to in that paragraph that is a grant under a granting program established by the First Nation.

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Expenditures are limited to local services. No FSMA First Nation can include per capita distributions or for-profit investments in its expenditure laws. These prohibitions were included to provide greater certainty and security to taxpayers, investors, and possible FNFA bondholders. Moreover, no other local government in Canada can make expenditures in these areas. Local services are defined as “an activity, work or facility undertaken or provided by or on behalf of the First Nation that is for a public purpose and falls within a category of expenditures listed in the Schedule.” The first part of this definition is common for local governments. The second part of the definition is implicit for local governments but explicit for FSMA First Nations in that they are required to

make expenditures for public purposes and must spend local revenues within specified expenditure categories.

## **S.2(a) Budget**

2. The Law required under paragraph 10(b) of the Act must
  - (a) include as a schedule the First Nation's annual budget, using the categories of expenditures set out in the Schedule;

The First Nation's annual local revenue budget must be included, and it must use the categories of expenditures set out in the schedule to the *Standards for First Nation Expenditures Laws*. This defines the local service expenditures that the First Nation intends to make in the coming year, and facilitates comparability for the FNTC, taxpayers, investors, and others. These are the same categories used for local governments in the national Financial Management Services (FMS) statistical framework developed by Statistics Canada. This means that the FSMA expenditure system will be comparable and harmonized with other Canadian governments. To this point, First Nation governments are the only governments that have been excluded from the national system of accounts. This will allow taxpayers and other interested parties to make expenditure comparisons between First Nation and other local governments.

## **S.2(b) and s.3 Contingency Amounts**

- (b) provide for a contingency amount for the provision of local services as part of the annual budget, as follows:
    - (i) the contingency amount must not exceed ten percent (10%) of the total annual local service expenditures of the First Nation; and
    - (ii) the contingency amount must be at least one percent (1%) of the total annual local service expenditures of the First Nation; and
3. The Law must provide that contingency amounts may be expended as necessary in any of the categories of expenditures set out in the annual budget.

The budget must include a contingency amount greater than 1% but less than 10% of the annual local service expenditures of the First Nation. Including contingency amounts is prudent financial practice. This section requires contingency funds and places reasonable limits on the contingency fund size. Contingency amounts may be expended, as necessary, in any of the categories of expenditures set out in the annual budget. This protects the integrity of the local revenue account and provides certainty that the money will be used to fund local services and not be redirected elsewhere.

## **S.2(c) Service Agreements**

- (c) set out, in respect of each service agreement between the First Nation and a third-party service provider, the amounts payable by the First Nation to the third party under the agreement in the budget period.

Service agreements are an effective means of providing local services. They enable First Nations and local governments to benefit from economies of scale and from access to established expertise and experience. Service agreements can also provide more cost certainty to the First Nation than if the First Nation provided the service directly. They also assure taxpayers that the taxpayers are receiving local services at comparable regional standards. This section requires First Nations to report to their taxpayers the amounts First Nations are spending on service agreements.

## **S.4 Reserve Funds**

4. The Law must set out all payments into a reserve fund and all expenditures from a reserve fund.

Although not mandatory, the FNTC encourages the use of reserve funds, especially for the purpose of building, replacing, and upgrading capital infrastructure. Where reserve funds are used, payments to, and expenditures from, the reserve funds must be included in the expenditure law. Reserve funds are common in all local governments. Including reserve fund payments and expenditures in the expenditure law is sound financial practice and increases transparency.