



To All First Nations Negotiation Under the BC Treaty Process and Receiving Negotiation Support Funding:

Re: Audit of «FIRSTNATION» Negotiation Support Funding for the Year Ending March 31, 2017

We are writing to all First Nations regarding the upcoming audit of Negotiation Support Funding received for the year ending March 31, 2017.

As set out under Section 10.1 of the First Nation Negotiation Support Agreement, First Nations are required to deliver to the British Columbia Treaty Commission (“the Commission”) **prior to October 1, 2017**, audited financial statements for the fiscal year respecting the contribution and any Loan Advances received under the First Nation Negotiation Support Agreement, Expenditures and any unexpended funds from a previous First Nation Funding Agreement.

This date has remained consistent over the years and allows First Nations six months to complete the audit, therefore the Commission will not grant requests for extensions of this date, except under exceptional circumstances.

As set out under Section 10.2 of the First Nation Negotiation Support Agreement, the Commission requests that your First Nation, with the assistance of your Auditor, provide the information requested in this letter to allow for the Commission “to be satisfied that the contribution payments and loan advances were used for the purposes set out in Section 2.1”, which requires that the funding provided was used “to prepare for and carry out treaty negotiations with Canada and BC”.

Completion of the Auditor’s Report on Compliance with an Agreement is a very important part of satisfying the Commission that the negotiation support funding has, in fact, been expended for the purposes identified in the funding agreements. Please see point 3 below for more information.

It is equally important that the First Nation maintain an adequate system of financial controls to ensure that expenditure of negotiation support funding is for treaty negotiations only. We note that pursuing specific claims is not an acceptable use of negotiation support funding, as there is a separate bilateral process for addressing specific claims, which would involve the First Nation and Canada. We further note that expenditure of negotiation support funding must also be in accordance with the budget approved by the Commission, and be for costs incurred in the fiscal year ended March 31, 2017. If the First Nation Negotiation Support fund of a First Nation incurs a deficit in any year, it is the responsibility of the First Nation to ensure that other resources of the First Nation are available to cover the deficit. Our authorities do not allow the Commission to allocate negotiation support funding to cover a deficit from a previous year.

Please ensure that these instructions are passed on to the other auditors who may be auditing the treaty funding of member First Nation communities, which form part of the consolidated audited treaty statements. It is important that all financial information contributing to the overall First Nation treaty audit meets the audit requirements. This will also avoid any unnecessary follow up once the audit is complete.

We are enclosing sample statements and reports and we request that you instruct your auditor to follow this format. Please note that a separate Statement of Financial Position for the Treaty Fund is required. It is also our expectation that, in accordance with standard auditing practices, your auditor will:

1. Review the relevant sections of the most recent First Nation Negotiation Support Agreement relating to the First Nation's liability to Canada for negotiation support funding and for maintaining a system of adequate financial controls to ensure that negotiation support funding is spent only on expenditures as defined in the Agreement. This includes maintaining separate records and procedures, which conform to generally accepted accounting principles.

Please note that the date of the First Nation Negotiation Support Agreement must be referenced in the Auditor's Report on Compliance with an Agreement and Note 1. The dates of First Nation Negotiation Support Agreements, which would include any Amendment of Funding Amount Agreement(s), refers to the 2016/2017 fiscal year unless the First Nation did not receive new funds in 2016/2017. The Commission can confirm the Agreement and Amendment dates, the funding for the current year and the outstanding loan balance directly to your auditor.

2. Provide a separate statement of financial position for the Treaty Fund.
3. Complete a Report on Compliance with an Agreement, including the Schedule to the Auditor's report on Compliance with an Agreement, in addition to the regular audit report. **We reiterate that this report is to use the exact wording as provided in the sample statements, unless the reason to alter the wording is to report on non-compliance.**

As previously noted, in this report the auditor is to confirm that expenditures were compared to the final budget approved by the Commission and that either no material variances were found or the material variances are documented in an attached schedule **with explanations for the variances**. The Commission is not concerned where expenditures are below budget, except as this may relate to expenditures exceeding budgeted amounts in other categories.

4. Compare the final 2016/2017 budget approved by the Commission and the workplan submitted by the First Nation for negotiation support funding with the actual "Expenditures" and document any significant variances. The Commission will provide a copy of the final approved budget upon request. If a First Nation anticipates a notable change in the budget, the First Nation should submit a revised budget to the Commission for approval prior the end of the fiscal year. This will avoid unnecessary follow up.
5. Ensure that revenues include only negotiation support contribution payments and loan advances for the year. Interest income need **not** be included. If any of your Expenditures are reimbursed from other sources, the appropriate Expenditure item is to be reduced accordingly, rather than including the reimbursement as revenues.
6. Understand that if a First Nation or central treaty office transfers or disburses negotiation support funding to another department or member First Nation for treaty-related purposes, the First Nation or central office must ensure that a sub-budget for those funds, that is consistent with the final budget approved by the Commission, is approved by the First Nation or entity that directly receives the negotiation support funding. These expenditures must also be accounted for on the statement of receipts and expenditures.
7. Understand that if the First Nation or other entity that receives negotiation support funding from the Commission transfers or disburses negotiation support funding to a member band or community (the other party), the "expenditures" by the other party related to these transfers or disbursements must be audited and in compliance with the Agreement. If these transfers are accounted for on the Statement of Receipts and Expenditures as a one line item (for example: "Transferred to ABC Band \$100,000"), a separate Statement of Receipt and Expenditures and a separate Statement of Financial Position reporting on these funds by ABC Band(s) is required. A separate Auditor's Report and a separate Compliance Report will also be required from the ABC Band(s).
8. Ensure that transfers to other departments or programs for treaty related services accounted for on the Statement of Receipt and Expenditures as a one line item (for example "Transferred to other programs \$25,000"), are described in a note to the Financial Statements.

9. Understand that repayable transfers or loans to other departments or entities (i.e. Due to/from Operating Funds, Accounts Receivable, etc.) are not acceptable. **If such items do appear on the financial statements, please provide detailed explanations for the items in the Notes to the Financial Statements.**
10. Document the system of financial controls, which ensures that negotiation support funding is expended only for treaty negotiations, in accordance with the budget approved by the Commission. Budgets are approved and funding is provided only for one fiscal year at a time. Therefore, while under accounting rules prepaid items are technically not expenditures in the current fiscal year, they clearly cannot be approved in an annual budget. With a prepaid item, the funds have already been disbursed to another entity but the Commission has not given approval for the use of the funds. Small amounts of prepaid expenses such as postage or insurance should be shown as expenditures in the current year.
11. Review invoices individually for legal and other professional and consulting fees to ensure that the services were for treaty negotiations only. Where the invoice detail is inadequate, obtain third party confirmation of the amount that should be allocated to treaty negotiations. This is to ensure that the Negotiation Support Funding is not used to prepare for or participate in litigation or other non-treaty matters, in accordance with section 2.1 of the Agreement.
12. Use the Auditor's professional judgment in identifying positive material variances from budget line items.
13. Obtain a letter of representation from the First Nation's governing authority confirming the amount of the loan payable to Canada as at March 31, 2017 and that all disbursements of negotiations support funding were for treaty negotiations only.
14. Confirm the reasonableness and document the basis for allocations or transfers of general expenses charged to treaty negotiations (for example office salaries, rent, office overheads), and comment on them.
15. Confirm that expenses for travel, accommodation and meals are charged fully to treaty negotiations only if the purpose of the expenses is related 100% to treaty negotiations. If other business was conducted during the trip, confirm that the appropriate cost allocations have been made.
16. If the auditor identifies any significant internal control issues in the course of the audit, provide the BC Treaty Commission with a copy of the Management Letter issued to the First Nation's governing authority and the First Nation's responses to the observations. If the Management letter has been combined with the post audit communications, this letter should be provided.
17. Review the minutes of Council or Board meetings relating to Treaty Negotiations.
18. **Please note**, if your First Nation is, or uses, an incorporated entity (society / non-profit corporation), we remind you that it is the responsibility of the First Nation (and the First Nation Association) to ensure that the incorporated entity is in full compliance with the Society Act / Canada Corporations Act and the entity's internal bylaws and procedures. If you have not obtained a legal review of the incorporated entity's governance documents (such as the Constitution, bylaws, membership requirements and key policies) in the past five years, or if those documents have changed, it would be prudent to do so. The Commission is not able to investigate or verify each incorporated entity's compliance with these requirements, and relies on the First Nation (and First Nation Association) to do so. Any failure or omission on the part of the First Nation or First Nation Association in this regard may result in liability for the First Nation and / or the First Nation Association, and could disrupt the negotiation of treaty. We urge you to ensure that this does not occur. **The new Societies Act came into effect on November 28, 2016, the following is a link to the changes and requirements** <http://www2.gov.bc.ca/gov/content/employment-business/business/not-for-profit-organizations/societies>.
19. In performing these audit procedures, use an appropriate level of materiality, risk assessment and testing which should in most cases be different from that used in auditing other programs or the combined or consolidated financial statements of the First Nation.

20. Understand that the purpose of negotiation support funding is to prepare for and to carry out treaty negotiations, not build the asset base of the First Nation. Major capital purchases will not be approved in the treaty budgets. The Commission recommends that any essential, major capital purchases be made by the First Nation, and then the treaty office lease or rent the asset from the First Nation. However, the Commission can approve purchases of small capital assets that depreciate rapidly and require frequent replacement, such as computer equipment.
21. Purchases of small capital assets should be included as expenditures and not capitalized. Should the First Nation choose to record capital purchases as assets, a separate reconciliation of expenditures will be required that includes capital purchases as expenditures and excludes any amortization taken on capital purchases. A sample reconciliation is provided in the appendix to this letter.
22. Concerns exist that other funding from Canada or BC (e.g., Treaty Related Measures or TRM funding) may duplicate Negotiation Support funding and could be used for the same purpose or activity. It is necessary for the auditor to perform additional procedures to ensure the accounting for the source and use of all funding for treaty-related activities is correct. The auditor will need to confirm the expenditures are not charged to Negotiation Support Funding as well as the other funding source. Auditors will need to perform all necessary procedures to ensure that expenditures are recorded in the appropriate account and that each expenditure is recorded only once.

We outline these specific procedures as they may be unique to an audit of negotiation support funding. They are not intended as a minimum standard of audit work. Your auditor will use their professional judgment to determine the appropriate procedures to be performed to support their audit opinion.

The attached forms and guidelines are also available online at <http://bctreaty.net/files/funding-templates.php>. The following path will take you to the Sample Workplans & Budgets models: - *Home » About Us » Funding » Templates for BC First Nations Funding Submissions » Audit Report Samples & Instructions*

The First Nation's reporting relationship with Canada does not concern the Treaty Commission. However, the Commission believes there is no reason to disclose detailed treaty expenditures to Canada in the same format that such expenditures are disclosed to the Commission. We understand that Indigenous and Northern Affairs Canada will accept the following sample presentation in a First Nation's consolidated financial statements, with respect to the schedule for treaty negotiations:

Revenues	\$x
Expenditures	\$y
Excess/Deficit of Revenues over Expenditures	\$x-y
Loans Payable	\$z

If you or your auditors have any questions regarding the above, do not hesitate to contact me at (604) 482-9209.

With Respect,

BC TREATY COMMISSION

DAN GILL, Director
Negotiation Support Funding

Enclosures

«FIRSTNATION»