



# FINANCIAL MANAGEMENT ACT

## Journey to Otipemisiwak Métis Government

### PROPOSED LEGISLATIVE AMENDMENT

#### Qualifications of the Auditor General

13 (1) The Auditor General must be:

- (a) a Citizen; ~~and~~
- (b) have experience in accounting or public governance-; ~~and~~
- (c) notwithstanding any provision of any other Otipemisiwak Métis Government law(s), may be an existing independent, arm's length, contractor of the Otipemisiwak Métis Government where such appointment is deemed appropriate and advisable by the Citizens' Council.

Please see the proposed Citizens' Council amendment to the law below. Any feedback can be emailed to [DBailey@metis.org](mailto:DBailey@metis.org)

SEPTEMBER 2023

# Otipemisiwak Métis Government Financial Management Act

## Table of Contents

PREAMBLE .....	1
PART I: INTRODUCTORY PROVISIONS .....	2
Short title .....	2
Application .....	2
Definitions .....	2
PART II: FINANCIAL MANAGEMENT .....	3
Responsibility of Citizens' Council.....	3
Financial management rules .....	3
Fiscal Year .....	3
Budget.....	3
Signing authority .....	3
Books and records .....	4
Borrowing Powers .....	4
PART III: THE AUDITOR GENERAL.....	4
The Auditor General.....	4
Qualifications of the Auditor General .....	4
Appointment of Auditor General.....	5
Term of Auditor General .....	5
Oath of office.....	5
Remuneration .....	5
Acting Auditor General .....	5
Suspension.....	6
Removal.....	6
Vacancy .....	6
OFFICE OF THE AUDITOR GENERAL.....	6
Office of the Auditor General.....	6
Staff of the Office of the Auditor General.....	7
Delegation of powers.....	7
Confidentiality .....	7
Financing of operations .....	7

Annual report on operations .....	7
<b>PART IV: DUTIES OF THE AUDITOR GENERAL .....</b>	<b>7</b>
Duties of the Auditor General .....	7
Financial statement audit .....	7
Annual report .....	8
Special report .....	8
Access to information .....	8
Summons and examination .....	9
<b>PART V: DISTRICT COUNCILS AND INSTITUTIONS .....</b>	<b>9</b>
Agreement with District Council .....	9
District Council financial management regulations .....	9
District Council financial management policies .....	9
Communicating financial statements and policies .....	9
Auditing Institutions and District Councils .....	10
<b>PART VI: NO OBSTRUCTION .....</b>	<b>10</b>
No obstruction .....	10
<b>PART VII: TRANSITION .....</b>	<b>11</b>
MNA financial policies apply .....	11
Role of Provincial Secretary of the Treasury .....	11
Institutions .....	11
Restriction on Auditor General authority .....	11
<b>PART VIII: GENERAL .....</b>	<b>11</b>
Immunity .....	11
Non-compellability .....	12
Power to enact regulations .....	12
Review of Act .....	12
Commencement .....	12

## **PREAMBLE**

**WHEREAS** section 13.2 of the *Otipemisiwak Métis Government Constitution* provides that one of the Otipemisiwak Métis Government's goals and responsibilities is to operate in a transparent and fiscally responsible manner;

**WHEREAS** section 24.5 of the *Otipemisiwak Métis Government Constitution* provides that the Otipemisiwak Métis Government shall maintain a law that governs the financial management of its governance structures and Institutions, including the accountability of the Otipemisiwak Métis Government to its Citizens, and that enables and protects the work of the Auditor General;

**WHEREAS** section 31.1 of the *Otipemisiwak Métis Government Constitution* provides that wherever the *Otipemisiwak Métis Government Constitution* provides that the Otipemisiwak Métis Government shall maintain a law regarding a matter, the Métis Nation of Alberta Association's Provincial Council shall adopt such laws by resolution, which will be considered laws of the Otipemisiwak Métis Government, prior to the coming into force of the Constitution;

**NOW THEREFORE** the Otipemisiwak Métis Government enacts as follows:

## PART I: INTRODUCTORY PROVISIONS

### Short title

**1** This Act may be cited as the *Financial Management Act*.

### Application

**2** This Act applies to:

- (a) the financial management of the Otipemisiwak Métis Government’s governance structures and Institutions; and
- (b) the work of the Auditor General.

### Definitions

**3** (1) In this Act:

- (a) “**Act**” means the *Otipemisiwak Métis Government Financial Management Act* including any amendments to the Act;
- (b) “**Auditor General**” means the person appointed to the office of the Auditor General of the Otipemisiwak Métis Government under section 14 of this Act;
- (c) “**Cabinet**” means the executive council of the Otipemisiwak Métis Government as provided for in the Constitution;
- (d) “**Constitution**” means the *Otipemisiwak Métis Government Constitution*;
- (e) “**financial policies**” means the financial policies duly adopted by the MNA or the Otipemisiwak Métis Government, as the context may require;
- (f) “**Institution**” means an Institution of the Otipemisiwak Métis Government;
- (g) “**MNA**” means the Métis Nation of Alberta;
- (h) “**own-source revenue**” means revenue of the Otipemisiwak Métis Government, including its District Councils, or Institutions from sources other than funding agreements with other levels of government; and
- (i) “**Treaty**” means a modern-day treaty relationship negotiated on behalf of the Métis Nation within Alberta with the Crown through a land claims agreement or other arrangement as called for and contemplated within the meaning of section 35(3) of the *Constitution Act, 1982* as contemplated under the Constitution.

(2) Unless otherwise noted in this Act, words and phrases in this Act have the meaning given to them in the Constitution and *Self-Government Act*.

## **PART II: FINANCIAL MANAGEMENT**

### **Responsibility of Citizens' Council**

**4** The Citizens' Council must provide financial accountability to Citizens in accordance with the Constitution and Otipemisiwak Métis Government Law.

### **Financial management rules**

**5** (1) All financial management Laws, regulations, and policies that govern the Otipemisiwak Métis Government's financial management must:

- (a) ensure that the Otipemisiwak Métis Government operates in a transparent and fiscally responsible manner; and
- (b) comply with generally accepted accounting principles, where appropriate.

(2) The Senior Executive Officer may institute and amend policies, procedures, and standards regarding the financial management of the Otipemisiwak Métis Government and Institutions provided that such policies, procedures, and standards must be consistent with the Constitution, Otipemisiwak Métis Government Law, and any resolutions adopted by the Cabinet or the Citizens' Council.

(3) For greater certainty, the Senior Executive Officer may make policies regarding any matters listed in section 46 of this Act.

(4) The Senior Executive Officer must submit to the Cabinet any new or amended policies, procedures, or standards instituted under subsection (2) as soon as practicable following such policies, procedures, or standards being instituted.

### **Fiscal Year**

**6** The fiscal year of the Otipemisiwak Métis Government shall end on the 31st day of March in each year or such other date as may from time to time be determined by the Citizens' Council.

### **Budget**

**7** (1) The Citizens' Council must approve an annual budget of the Otipemisiwak Métis Government.

(2) The budget referred to under subsection (1) must include the budget for core governance activities of the Otipemisiwak Métis Government.

### **Signing authority**

**8** The President, the Provincial Secretary of the Treasury, or the Provincial Secretary of Records shall be one (1) of two (2) signing authorities required on all documents to be signed by the

Otipemisiwak Métis Government and may appoint another Representative or Otipemisiwak Métis Government employee to sign on their behalf in accordance with Otipemisiwak Métis Government Law.

### **Financial records**

**9** The Provincial Secretary of the Treasury must cause accounting details to be kept of all monies received and expended by the Otipemisiwak Métis Government, including full and accurate account of receipts, disbursements, and books of the Otipemisiwak Métis Government.

### **Books and records**

**10** All accounting records and other books and records of the Otipemisiwak Métis Government must be kept at such place in the Province of Alberta as the Citizens' Council may decide and must be open for inspection by any Citizen upon giving reasonable notice in the form of a written application to, and arranging a satisfactory time with, the Provincial Secretary of Records.

### **Borrowing Powers**

**11** For the purpose of carrying out the Citizens' Council authority and responsibility, the Citizens' Council may borrow or raise or secure payment of money in such manner as the Citizens' Council sees fit and in particular by the issue of debentures, but this power must be exercised only in accordance with the Bylaws of the Métis Nation of Alberta Association.

## **PART III: THE AUDITOR GENERAL**

### **The Auditor General**

**12** (1) The Auditor General is an arm's length officer of the Otipemisiwak Métis Government.

(2) As an arm's length officer of the Otipemisiwak Métis Government, the Auditor General must make decisions and perform their duties in keeping with this Act independently from political influence.

### **Qualifications of the Auditor General**

**13** (1) The Auditor General must be:

- (a) a Citizen; and
- (b) have experience in accounting or public governance.

(2) An elected official of the Otipemisiwak Métis Government may not be appointed as Auditor General.

### **Appointment of Auditor General**

**14** Within 30 days following the general election of the Otipemisiwak Métis Government:

- (a) a committee of the Citizens' Council must prepare a list of nominees for the Auditor General; and
- (b) the Citizens' Council must select a nominee from the list by resolution.

### **Term of Auditor General**

**15** (1) The Auditor General must be appointed for a term ending on the date:

- (a) a person is appointed to the office of Auditor General following the next general election;
- (b) the Auditor General resigns by submitting a written notification of their resignation to the Chair; or
- (c) they are removed from their office in accordance with section 20 of this Act.

(2) The Citizens' Council may re-appoint a person appointed as the Auditor General to the office of Auditor General.

### **Oath of office**

**16** Before beginning the duties of office, the Auditor General must take an oath of office to perform the duties of their office faithfully and impartially and must not disclose or give to any person any document or information received by the Office of the Auditor General under this Act except as the Auditor General may be legally required to do so.

### **Remuneration**

**17** (1) The Auditor General is entitled to be remunerated at a rate set by the Citizens' Council.

(2) The Citizens' Council must determine the remuneration of the Auditor General after considering a report prepared by the Senior Executive Officer on remuneration of persons having similar authority and responsibility elsewhere in Canada.

(3) The Auditor General must be reimbursed for reasonable expenses necessarily incurred in performing their duties.

### **Acting Auditor General**

**18** As soon as practicable after being appointed, the Auditor General must designate a Citizen who meets the qualifications to be Auditor General to fulfill the duties of the Auditor General in the event:

- (a) the Auditor General is temporarily unable to fulfill their duties;



- (b) the Auditor General is in a conflict of interest; or
- (c) of a vacancy in the office of the Auditor General.

### **Suspension**

**19** (1) The Judicial Branch may order that the Auditor General be suspended from their office if:

- (a) the Auditor General is subject to an investigation under an Otipemisiwak Métis Government Law, for no longer than the duration of the investigation; or
- (b) the Auditor General breaches an Otipemisiwak Métis Government Law that provides for the Auditor General's suspension.

(2) Subject to an order of the Judicial Branch, the Auditor General must cease all duties and activities related to their office during a suspension.

### **Removal**

**20** (1) The Auditor General's appointment is automatically revoked, and their office is vacant if the Auditor General is no longer a Citizen.

(2) The Citizens' Council may, by special resolution, revoke the Auditor General's appointment for cause or incapacity.

(3) The Judicial Branch may order the Auditor General be removed from office if the Auditor General breaches an Otipemisiwak Métis Government Law that provides for the Auditor General's removal.

### **Vacancy**

**21** In case of a vacancy in the office of the Auditor General, the Citizens' Council must appoint a person as the Auditor General as soon as practicable following the vacancy.

## **OFFICE OF THE AUDITOR GENERAL**

### **Office of the Auditor General**

**22** (1) The Office of the Auditor General is hereby established.

(2) The Auditor General must:

- (a) administer, manage, and control the Office of the Auditor General and the general business of that Office; and
- (b) oversee and direct any staff of the Office of the Auditor General.

### **Staff of the Office of the Auditor General**

**23** The Auditor General may employ such employees or contract for such services that the Auditor General considers necessary for the Auditor General to exercise their powers and perform their duties under Otipemisiwak Métis Government Law.

### **Delegation of powers**

**24** The Auditor General may, in writing, delegate to any person employed in the Office of the Auditor General or to any person appointed by the Auditor General under a contract for professional services, any power or duty conferred on the Auditor General by this Act or any other Otipemisiwak Métis Government Law, except for the duty to report to the Citizens' Council or Citizens' Gathering.

### **Confidentiality**

**25** The Auditor General and staff of the Office of the Auditor General must maintain confidentiality in respect of all matters that come to their knowledge in the exercise of their powers or duties under this Act.

### **Financing of operations**

**26** The Citizens' Council must ensure that the Office of the Auditor General is allocated the funds required for the Auditor General to exercise their powers or perform their duties under this Act.

### **Annual report on operations**

**27** Within 60 days following the end of each fiscal year, the Auditor General must submit a report to the Citizens' Council on the Office of the Auditor General's operations during the preceding fiscal year.

## **PART IV: DUTIES OF THE AUDITOR GENERAL**

### **Duties of the Auditor General**

**28** (1) The Auditor General must perform all duties assigned to them by Otipemisiwak Métis Government Law.

(2) The Auditor General has all the powers necessary to perform their duties under this Act.

### **Financial statement audit**

**29** (1) The Auditor General must cause an annual consolidated audited financial statement for the Otipemisiwak Métis Government to be prepared at least once yearly by a duly qualified accountant appointed by the Cabinet.

(2) The audited financial statement referred to in subsection (1) must be:

- (a) prepared in manner that sets out the Otipemisiwak Métis Government's revenue, disbursements, individual expenses of the Citizens' Council, assets, and liabilities to ensure the Otipemisiwak Métis Government fulfills the requirements of all external funding organizations;
- (b) signed by the qualified auditor;
- (c) approved by the Citizens' Council; and
- (d) presented at the annual Citizens' Gathering.

(3) The Auditor General must cause to be published an audited consolidated financial statement such that it is available to all Citizens.

### **Annual report**

**30** (1) After the end of the fiscal year, the Auditor General must prepare a report that includes the Auditor General's opinion, prepared in accordance with generally accepted auditing standards, as to the fair presentation of the consolidated financial statement of the Otipemisiwak Métis Government.

(2) The Auditor General must submit the report under subsection (1) to the Chair and then the Chair must table that report at the Citizens' Council as soon as practicable.

### **Special report**

**31** (1) The Auditor General may prepare a special report to the Citizens' Council on any matter of importance or urgency that, in the Auditor General's opinion, should not be deferred until the presentation of the Auditor General's annual report under section 30 of this Act.

(2) The Auditor General must submit the report under subsection (1) to the Chair and then the Chair must table that report at the Citizens' Council as soon as practicable.

### **Access to information**

**32** (1) The Auditor General must make such examinations and inquiries as they consider necessary to enable them to fulfill their responsibilities as set out in the Constitution or Otipemisiwak Métis Government Law.

(2) Despite any other Otipemisiwak Métis Government Law, the Auditor General is entitled to:

- (a) free access at all reasonable times to information, including files, documents, records, agreements, and contracts, despite that they may be confidential or private, that relates to the fulfilment of their duties under this Act; and

(b) require and receive from elected officials, officers, and employees of the Otipemisiwak Métis Government or an Institution the information, reports, and explanations that they consider necessary to fulfil their duties under this Act.

(3) The Auditor General must maintain the confidentiality or privacy of any confidential or private information they receive in fulfilling their duties under this Act.

### **Summons and examination**

**33** (1) The Auditor General, or a person authorized by the Auditor General, may summon and examine under oath any Citizen, elected official, officer, or employee of the Otipemisiwak Métis Government or an Institution who, in the opinion of the Auditor General, has information relevant to an audit or inquiry under this Act.

(2) A party or a person summoned and examined by the Auditor General under subsection (1) may be represented by any person, including a lawyer at their own expense. A non-lawyer representative must take an oath before representing a party.

## **PART V: DISTRICT COUNCILS AND INSTITUTIONS**

### **Agreement with District Council**

**34** The Cabinet may approve an arrangement or agreement with a District Council for funding that District Council. Any such arrangement or agreement must ensure fiscal responsibility and accountability.

### **District Council financial management regulations**

**35** The Cabinet may make regulations of general application governing the financial management of all District Councils.

### **District Council financial management policies**

**36** (1) The Senior Executive Officer may institute and amend financial management policies of general application governing all District Councils provided that such policies, procedures, and standards must be consistent with the Constitution, Otipemisiwak Métis Government Law, and any resolutions adopted by the Cabinet or the Citizens' Council.

(2) A District Council may make its own financial management policies subject to Otipemisiwak Métis Government Law, regulation, or any policy of general application.

### **Communicating financial statements and policies**

**37** As soon as practicable, an Institution or a District Council must provide the Citizens' Council with a copy of:

(a) its reviewed or audited annual financial statements, no later than 90 days after the end of the fiscal year; and

(b) any new or amended financial policies or procedure, no later than 10 days after approving them.

### **Auditing Institutions and District Councils**

**38** (1) The Auditor General may cause an Institution or a District Council to be audited by a duly qualified accountant.

(2) If the accounts of an Institution or a District Council are audited other than by the Auditor General, the person performing the audit must:

(a) deliver to the Auditor General, immediately after completing the audit, a copy of the report of the person's findings and the person's recommendations to management, and a copy of the audited financial statements of the Institution or District Council;

(b) make available immediately to the Auditor General, on the Auditor General's request, all working papers, reports, schedules, and other documents in respect of the audit or in respect of any other audit of the Institution or District Council specified in the request; and

(c) provide immediately to the Auditor General, on the Auditor General's request, a full explanation of the work performed, tests and examinations made, the results obtained, and any other information within the knowledge of the person in respect of the Institution or District Council.

## **PART VI: NO OBSTRUCTION**

### **No obstruction**

**39** (1) No person shall:

(a) obstruct or provide false or misleading information to the Auditor General, or a person employed under the Auditor General, in conducting an examination or audit under this Act;

(b) conceal, falsify, or destroy any records or things relevant to an examination or audit under this Act; or

(c) refuse or fail to comply with a lawful request under this Act.

(2) If the Judicial Branch determines that a person contravened section 39 of this Act, the Judicial Branch may impose sanctions in accordance with the *Judicial Branch Act*.

## **PART VII: TRANSITION**

### **MNA financial policies apply**

**40** (1) The MNA financial policies apply to the financial management of the Otipemisiwak Métis Government, with all necessary modifications, until the MNA financial policies are rescinded.

(2) The MNA financial management policies may be modified or rescinded in whole or in part at any time in accordance with Otipemisiwak Métis Government procedure.

### **Role of Provincial Secretary of the Treasury**

**41** In the MNA financial policies, a reference in relation to the financial management of the MNA by:

(a) the Treasurer of the Provincial Council; or

(b) the Vice President of the Provincial Council;

must be read as a reference to the Provincial Secretary of the Treasury, with all necessary modifications.

### **Institutions**

**42** Institutions must submit to the Citizens' Council copies of all financial management policies or procedures that are in place on the date the Constitution comes into force, no later than 30 days after the date the Constitution comes into force.

### **Restriction on Auditor General authority**

**43** The Auditor General may not conduct audits of the MNA for years prior to the fiscal year that the Constitution comes into force.

## **PART VIII: GENERAL**

### **Immunity**

**44** No proceedings lie against the Auditor General, staff of the Office of the Auditor General, or a person acting for or under the Auditor General's direction, for anything done, or omitted to be done:

(a) in accordance with Otipemisiwak Métis Government Law; and

(b) in good faith in the exercise or performance or the intended exercise or performance of a power, duty, or function under this Act.

### **Non-compellability**

**45** Neither the Auditor General, any employee of the Office of the Auditor General, or any person acting under the authority of the Auditor General is competent or compellable to give evidence before the Judicial Branch, or in any court or in any proceeding of an administrative, judicial, or quasi-judicial nature, with respect to anything coming to that person's knowledge in the exercise or performance of that person's powers and duties under this Act.

### **Power to enact regulations**

**46** The Cabinet may make regulations governing the Otipemisiwak Métis Government and Institutions it considers necessary or advisable for the purposes of this Act, including regulations governing:

- (a) procurement of Otipemisiwak Métis Government contracts;
- (b) delegation of signing authority;
- (c) restrictions on borrowing powers;
- (d) disposal of capital assets;
- (e) third party management;
- (f) own-source revenue;
- (g) the reimbursement of expenses a person summoned under section 33 of this Act may be entitled to; or
- (h) any other matter related to the implementation of this Act and the financial management of the Otipemisiwak Métis Government.

### **Review of Act**

**47** (1) No later than one (1) year following the date a Treaty is ratified in accordance with the Constitution, this Act must be referred to a committee of the Citizens' Council designated or established for the purpose of reviewing this Act.

(2) The committee of the Citizens' Council to which this Act is referred must within one (1) year after a review is undertaken pursuant to subsection (1), submit a report of the committee's review of the Act to the Citizens' Council, including any proposed amendments to the Act or the regulations enacted pursuant to this Act.

### **Commencement**

**48** This Act comes into force on the date the Constitution comes into force.

