



June 20, 2023

Chief Wilbert Marshall, Chair

The special meeting of the AFNWA Board will be held on Monday June 26th, 2023, at 9:30 AM via Zoom.

## AGENDA

### In Camera Reports

1C Approval of Minutes of the In-Camera Meeting held on 31 May 2023.

2C Business Arising from Minutes

3C Contract Award- Eskasoni Pipe Loop Construction

**Motion:** That the AFNWA Board approve the recommendation as outlined in the confidential report dated June 23rd, 2023,

4C Combo Vacuum / Jet Truck Purchase -report to follow

**Motion:** That the AFNWA Board approve the recommendation as outlined in the confidential report dated June 23rd, 2023,

5C Review of CEO's 2022-2023 Goals and Objectives

**Motion:** That the AFNWA Board approve the recommendation as outlined in the confidential report dated June 23rd, 2023,

### Regular Reports

1. a) Ratification of In-Camera Motions  
b) Approval of the Order of Business and Approval of Additions and Deletions

2. Approval of Minutes of the Meeting held on 31 May 2023.

3. Business Arising from Minutes

4. First Nations Financial Management Board (FMB) Framework -report to follow

**Motion:** That the AFNWA Board approve the FMB Framework in its substantive form attached

Original signed by \_\_\_\_\_

James MacKinnon

Board Secretary



**Atlantic First Nations Water Authority  
MINUTES**

**31 May 2023**

**PRESENT:**

Chief Wilbert Marshall, Chair  
Chief Ross Perley, Vice Chair  
Regional Chief Joanna Bernard  
Todd Hoskin, Director  
Chief Aaron Sock, Director  
Chief Leroy Denny, Director  
Regional Chief Paul Prosper, Director  
Chief Terry Paul, Director  
Chief Andrea Paul, Director  
Chief Darlene Bernard, Director  
Methilda Knockwood-Snache, Chair of Elders  
Advisory Lodge

**REGRETS:**

Shelley Denny, Director

**STAFF:**

Carl Yates, interim CEO  
James MacKinnon, interim COO / Board Secretary  
Chantal LeBlanc, Manager of Corporate Services/ CFO  
John Lam, Manager of Engineering  
Rayleen MacDonald, Administrative Assistant/ Recording  
Secretary

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**CALL TO ORDER**

Carl Yates, upon direction from the Vice Chair, called the regular meeting to order at 9:40 AM via the Zoom virtual platform. The Board moved In Camera at 9:45 AM

**1.a) RATIFICATION OF IN-CAMERA MOTIONS**

Due to time constraints/ lack of quorum for this particular item, this was unable to be moved at this time

**1.b) APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS**

**MOVED BY** Chief Terry Paul , **SECONDED BY** Todd Hoskin that the AFNWA Board approve the Order of Business and the Agenda as presented.

**MOTION PUT AND PASSED****2. APPROVAL OF MINUTES – 26 APRIL 2023**

Deferred due to time constraints.

**MOTION PUT AND PASSED.****3. BUSINESS ARISING FROM MINUTES****4. FOURTH QUARTER (Q4) FINANCIAL RESULTS with INVESTMENT UPDATE**

Unaudited fourth quarter results present total operating expenses for F22/23 of \$5.2 million which reflects an amount under budget by approximately \$600,000. The material differences are summarized as follows:

- Payroll, under budget by approx. \$311k which is due mainly to accruals/provisions that were factored into the transitional funding agreement:
  - Interim position salaries. AFNWA staff includes an interim COO - the position is not part of the Ten-Year Funding Agreement budget. The position was developed and maintained to assist with transition implementation and therefore the budget for salary was built into the transitional budget at an amount of \$180k covering a 16-month period (Dec 1, 2022-March 31 2024).

- A budget of 10% of Community Operator salaries was built into the transitional funding budget, essentially as an advance on O&M funds for onboarding Communities. This equates to a total of approx. \$220k for F22/23.
- Professional Services were under budget by approx. \$136k. Professional Services includes legal contracts which are ongoing as AFNWA continues to onboard communities.
- Fleet Services were under budget by approximately \$50k which was mainly due to a timing difference with the supply chain delays in receiving trucks later than anticipated.
- Board Compensation was under budget by approximately \$120k as a result of continuing to host Board Meetings virtually and the cost savings associated with decreased travel.

Total Capital Expenses were over budget by approximately \$60k which reflects the purchase of tools, equipment, and safety gear. The SCADA pilot projects with Lennox Island and Pictou Landing were delayed, largely as a result of supply chain issues for SCADA hardware, as well as the design work being undertaken which will run into Summer 2023. While the funds are committed to the SCADA project, the funds have not yet been spent and therefore, management expedited equipment purchases to maintain project schedules and remain within budget on capital items. We note that these capital purchases were supported by the transitional funding agreement and thus subject to reprofiling if it was not used in the fiscal year. The reallocation of funds to the equipment purchases was discussed with ISC previous to financial commitments being made.

We note that the Source of Funds is more than the Budgeted Use of Funds. The material differences in anticipated Source of Funds are as follows:

- Budget figures are presented in 2021 dollars. A CPI adjustment was approved, only for the transitional funds that were advanced in F22/23 (IE: the carryover funds from the year prior were ineligible for CPI increase).
- Funds were advanced from ISC to cover an Asset Management Plan for We'koqma'q which was delayed and is just now getting started.
- FNIHB approved funding for equipment including a correlator, gas detectors, a vacuum/pressure trailer and refrigerators. These items were not captured in the ISC request for funds but were identified as being helpful in protecting public health and therefore supported by FNIHB funding.

#### Investment Update

AFNWA received funds from ISC in March 2023, in line with expectations as captured in the Q3 update. This transfer of funds lead to a deposit balance of approx. \$33 million. \$20 million was deposited to investment accounts on March 31 2023, as follows:

- \$12 million, 1-year fixed GIC at 5.85%
- \$8 million, 6-month fixed GIC at 5.55%

We note that the remaining funds are in the AFNWA deposit account which carries an interest rate of 5.45% (BoC Overnight Rate + 95bps).

**MOVED BY Chief Ross Perley , SECONDED BY Regional Chief Joanna Bernard that the AFNWA Board approve the report on fourth quarter results, in its substantive form attached.**

**MOTION PUT AND PASSED.**

**5. FIRST NATIONS FINANCIAL MANAGEMENT BOARD (FMB) FRAMEWORK**

This item was deferred to the next special Board meeting due to time constraints.

**6. NEXT MEETING DATE**

The next regular Board meeting will take place on July 26th , 2023 via Zoom.

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*James MacKinnon*  
*Board Secretary*

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*Chief Wilbert Marshall*  
*Chair*



**ITEM # 4**  
**AFNWA Board**  
**June 26,2023**

**TO:** Chief Wilbert Marshall, Chair, and Members of the AFNWA Board

**SUBMITTED BY:** Original Signed by  
Chantal LeBlanc, CPA,CMA,MBA, Chief Financial Officer

**APPROVED BY:** Original Signed by  
Carl Yates, M.Asc., P.Eng., interim Chief Executive Officer

**DATE:** June 26, 2023

**SUBJECT:** **FIRST NATIONS FINANCIAL MANAGEMENT BOARD (FMB) FRAMEWORK**

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**ORIGIN**

Transition Implementation Plan approved by AFNWA Board on June 24, 2020, and report presented at Board meeting of January 26, 2022 approving an MOU with FNFMB and ISC to develop an oversight framework.

**RECOMMENDATION**

It is recommended that the AFNWA Board endorse the Economic Oversight Framework, drafted in consultation with First Nations Financial Management Board [FNFMB] and Indigenous Services Canada [ISC], in the substantive form attached, and direct management to develop implementation plans to realize their prescribed objectives.

**BACKGROUND**

The concept of economic oversight of AFNWA has been discussed over the last several years but has taken on more significance with the signing and subsequent ratification of the Service Delivery Transfer Agreement with Indigenous Services Canada [ISC]. This is in recognition that the utility needs to be transparent and accountable to the federal government [its funding agency] and the First Nations communities it serves.

**DISCUSSION**

FNFMB, ISC and AFNWA have negotiated a draft Practice Directive document which outlines the working relationship between AFNWA as operational utility, ISC as funder, and FNFMB as economic oversight agency. All parties have agreed that these Practice Directives would be applied with no penalties during the Fiscal 2023-2024 Year given that it is our first year operating as a utility and the onboarding and transitioning of communities will be held as a priority. The Practice Directives are also subject to renegotiation for the Fiscal 2024-2025 Year which ensures that the Directives are appropriate for AFNWA as we continue to grow.

The following documents have been proposed for submission to FNFMB within an annual cycle which would allow FNFMB to provide an opinion statement to ISC regarding the organizational prudence and efficiency of resource management. These reports would be public unless specifically marked confidential or redacted.

<b>Report Name</b>	<b>Description</b>
Annual Capital & Operating Budgets	Annual budget of all capital projects and programs, similar to capital budget submitted to AFNWA Board for approval in the Fall of the year preceding the Fiscal Year under review.  Submission date: November 15 <sup>th</sup>
Annual Vacancies Report	Report describing any and all vacancies in management or within the Board of Directors as well as details regarding how any vacancies are to be filled.  Submission date: June 29 <sup>th</sup>
Assessment of Overdue Balances Report	Assessment of any doubtful accounts.  Submission date: July 29 <sup>th</sup>
Compliance Analysis	Report generated by FNFMB regarding AFNWA adherence to FNFMB NPO Standards.  Submission date: August 1st



**ITEM # 4**  
**AFNWA Board**  
**June 26, 2023**

Comprehensive Reconciliation Report	Reconciling current year budgets to Ten-Year Business Plan and IRP. Submission date: April 30 <sup>th</sup>
Development Charges Reconciliation Report	Reconciling operating and capital costs versus revenues from rates charged to economic initiatives. Submission date: June 29 <sup>th</sup>
Management Action Plan	Detailing committed Action(s) to remedy any projected deficits. Submission date: November 15 <sup>th</sup> , as needed.
Operational Budget Reconciliation Report	If budget appears with different categories than does the audited financial statements, this report would be required to accompany annual budget submission. Submission date: November 15 <sup>th</sup>
Operational Budget Variance Report	Budget variance analysis for last year versus the current year. Submission date: November 15 <sup>th</sup>
Pre-Borrowing Reports	Financial viability analysis, operational feasibility study and finance alternative analysis prior to any Borrowings. Submission date: March 31 <sup>st</sup> or as required.
Summary Reports	Summary of information, as reported to FNIHB and ECCC, based on annual reporting requirements in framework. Submission date: March 31 <sup>st</sup> for the prior calendar year.
Variance Analysis Reports	Analysis of capital budget variances on individual projects, including details on projects that were budgeted but have

	not yet begun. Submission date: July 29 <sup>th</sup> for the prior Fiscal Year.
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In addition to the reports above, FNFMB will also be tracking progress on a variety of Key Performance Indicators (KPIs), as described in Appendix B of the attached Practice Directives. We note that these KPIs were selected to mirror the KPIs on the Corporate Balanced Scorecard as approved by the Board on April 26, 2023. AFNWA is in the process of establishing data measurement systems in order to set a baseline and corresponding benchmark for all KPIs. FNFMB has noted that several KPIs do not have established benchmarks but rather that the benchmarks will be tested in Fiscal 2024-2025 at the earliest.

**FINANCIAL and BUDGET IMPLICATIONS**

All financial implications associated with the preparation of these reports is included in the workflow and budgeted salaries of the CFO and Corporate Services Department.

**ALTERNATIVES**

None to be discussed at this time.

**ATTACHMENT**

Draft Practice Directives  
FNFMB Board Regulatory Rules

Report Prepared by: \_\_\_\_\_  
Chantal LeBlanc, CFO and Manager of Corporate Services, 902-603-0312

Financial Reviewed by: \_\_\_\_\_  
Carl Yates, interim CEO, 902-603-0312

**Practice Directives of the Atlantic First Nations Water Authority Inc., First Nations  
Financial Management Board and Indigenous Services Canada**

In consideration of the premises and the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

The Atlantic First Nations Water Authority Inc. (“AFNWA”), First Nations Financial Management Board (“FMB”), and Indigenous Services Canada (“ISC”) agree to be bound by the attached Practice Directives.

The Practice Directives are to be read in conjunction with the *Board Regulatory Rules* which have been created to facilitate proceedings before the FMB.

The FMB lacks the legislative authority to make orders regulating the AFNWA and shall only provide recommendations to ISC.

The parties will make best efforts to comply with the reporting timelines as set out in the Practice Directives, however, penalties will not be imposed for failing to meet a deadline.

In witness whereof, the parties hereto have caused this agreement to be executed in its name and on its behalf by its duly authorized representatives and shall become effective this \_\_\_\_ day of \_\_\_\_\_, 2023.

EXECUTED by **ATLANTIC FIRST NATIONS WATER AUTHORITY INC.** )  
by its duly authorized signatory: )  
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 )  
 )  
 )  
 )  
\_\_\_\_\_  
Authorized Signatory )

EXECUTED by **FIRST NATIONS FINANCIAL MANAGEMENT BOARD** )  
by its duly authorized signatory: )  
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\_\_\_\_\_  
Authorized Signatory )

EXECUTED by **INDIGENOUS SERVICES CANADA** )  
By its duly authorized signatory: )  
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Authorized Signatory )

**ATLANTIC FIRST NATIONS WATER  
AUTHORITY INC. and  
FIRST NATIONS FINANCIAL  
MANAGEMENT BOARD**

**PRACTICE DIRECTIVES**



**2023/04/01  
First Edition**

**Effective Date:** 2023/04/01

**Number:** PD – #1

**Title:** Practice Directives for the Atlantic First Nations Water Authority Inc. and the First Nations Financial Management Board

**Summary:** These Practice Directives are intended to further define the proposed area of regulation described in the business proposal from the First Nations Financial Management Board to Indigenous Services Canada and to develop a corresponding deliverable and reporting timeline. These Practice Directives are to be read in conjunction with the *Board Regulatory Rules*.

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## 1. Definitions

- 1.1 “AFNWA” – the Atlantic First Nations Water Authority Inc. as represented by its Board of Directors;
- 1.2 “AFNWA Management” – the Atlantic First Nations Water Authority Inc. as represented by its management;
- 1.3 “*Board Regulatory Rules*” – rules made to facilitate proceedings before the FMB;
- 1.4 “Fiscal Year” – the twelve (12) month period used for financial reporting purposes, which begins on April 1<sup>st</sup> of year-one and ends on March 31<sup>st</sup> of year-two;
- 1.5 “FMB” – the First Nations Financial Management Board, established under the *First Nations Fiscal Management Act*, SC 2005, c 9, as represented by its Board of Directors;
- 1.6 “Information Request” – are formal requests for information made by either the FMB and/or the public;
- 1.7 “IRP” – The Integrated Resource Plan (IRP) is a comprehensive infrastructure plan to optimize investments for three strategic drivers: asset renewal, regulatory compliance and growth. The IRP defines the required resources and programs to support AFNWA’s objective of providing reliable and efficient water and wastewater service to all customers/ participating communities over a twenty-five (25) to thirty (30) year period.
- 1.8 “ISC” – Department of Indigenous Services Canada;
- 1.9 “Large Capital Applications” – applications for capital projects exceeding \$250,000;
- 1.10 “Participating Communities” – the First Nations that have signed an agreement with the AFNWA to become Participating Members as defined in the AFNWA’s Governance Manual, where the Service Delivery Transfer Agreement has been authorized by a Band Council Resolution and the Participating First Nations have been listed in the Service Delivery Transfer Agreement Schedule 1 – List of Participating First Nations;
- 1.11 “Practice Directives” – pursuant to the *Board Regulatory Rules*, the FMB may issue Practice Directives which the FMB considers necessary to administer



its process and to effectively and completely adjudicate on the matter before it;

- 1.12 “Prudence” – the standard of care in which a reasonable person would be expected to exercise under the same circumstances at the time the decisions had to be made. Hindsight is not applied in assessing prudence. A decision is prudent if it was within the range of decisions a reasonable person might have made. The prudence standard recognizes that a reasonable person can have honest differences of opinion without one or the other necessarily being imprudent;
- 1.13 “Substantial Alteration” – is triggered as a result of a capital project’s expenses increasing by 25% or more as compared to the approved capital application, and/or a capital project’s expenses increasing by \$250,000 or more as compared to the approved capital application; and
- 1.14 “Substantial Completion” – refers to when the asset becomes operational for its intended purpose, which may differ from when depreciation begins as described per the Generally Accepted Accounting Principles (GAAP), and also may differ from the contractual definition of completion for any project.

## 2. General

- 2.1 Any filings by the AFNWA shall have the necessary AFNWA approvals.
- 2.2 The FMB reserves the right to revise any reporting letter to the AFNWA and ISC, as a result of AFNWA failing to disclose a material fact to the FMB that ought to have reasonably been disclosed prior to the FMB issuing its reporting letter, which resulted in a material change to the FMB’s opinion in their reporting letter.
- 2.3 Enclosed within these Practice Directives is Appendix “A” containing a flowchart reflecting the deliverables as prescribed within this document.
- 2.4 Any reporting deadline contained in these Practice Directives that is set to take place on a weekend or statutory holiday shall be extended to the next business day.
- 2.5 The FMB reserves the right to consult with the AFNWA on matters relevant to the corresponding Practice Directives under review to facilitate the review process as is necessary for the regulatory regime.

### 3. Annual Capital Budgets

- 3.1 The Annual Capital Budget shall correspond with the Five-Year Business Plan and the IRP. The first Five-Year Business Plan shall be available on March 31, 2025. The FMB shall review the Annual Capital Budget and the Large Capital Applications based on the concept of prudence.
- 3.2 The Annual Capital Budget shall include an estimate of the date in which the AFNWA anticipates providing the FMB with each of the Large Capital Applications. The Annual Capital Budget shall include the consolidated total of all capital expenditures with explanatory disclosures and shall be reviewed in principle based on the following timeline;
  - 3.2.1 The AFNWA shall provide the FMB with the Annual Capital Budget by November 15<sup>th</sup>, immediately prior to the upcoming fiscal year under review;
  - 3.2.2 The FMB shall review the Annual Capital Budget and provide any Information Requests and/or comments and a letter with initial funding recommendations to the AFNWA and ISC by January 31<sup>st</sup>, immediately prior to the upcoming fiscal year under review;
  - 3.2.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Annual Capital Budget and provide it to the FMB by February 28<sup>th</sup>, immediately prior to the upcoming fiscal year under review; and
  - 3.2.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Annual Capital Budget, and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by March 31<sup>st</sup>, immediately prior to the upcoming fiscal year under review.
- 3.3 The AFNWA may submit Large Capital Applications to the FMB continuously throughout the fiscal year. The Large Capital Applications shall be reviewed based on the following timeline;
  - 3.3.1 Upon receipt of the AFNWA's Large Capital Application, the FMB shall review the Large Capital Application and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC within eight (8) weeks;
  - 3.3.2 Upon receipt of any Information Requests and/or the FMB's comments and recommendations, the AFNWA shall respond to any

Information Requests, and if necessary, revise the Large Capital Application and provide it to the FMB within four (4) weeks; and

3.3.3 Upon receipt of any responses by the AFNWA to any Information Requests, and if necessary, the AFNWA's revised Large Capital Application, the FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Large Capital Application and provide a reporting letter, based on its observations and those of its external engineers, with comments and recommendations to the AFNWA and ISC within four (4) weeks.

3.4 The AFNWA shall provide the FMB with a budget-to-actual variance report (the "Variance Analysis Report") containing a detailed analysis of any budget surpluses or deficits for each project exceeding \$250,000 that has been Substantially Completed by March 31<sup>st</sup> of the fiscal year under review. The report should include details of any projects greater than \$250,00 that were previously identified in the annual capital budget that have not been proceeded with or have been Substantially Altered. The Variance Analysis Report shall be reviewed based on the following timeline;

3.4.1 The AFNWA shall provide the FMB with the Variance Analysis Report by July 29<sup>th</sup>, immediately following the fiscal year under review;

3.4.2 The FMB shall review the Variance Analysis Report and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by August 31<sup>st</sup>, immediately following the fiscal year under review;

3.4.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Variance Analysis Report and provide it to the FMB by September 30<sup>th</sup>, immediately following the fiscal year under review; and

3.4.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Variance Analysis Report, and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by November 30<sup>th</sup>, immediately following the fiscal year under review.

## 4. Annual Operational Budgets

4.1 The AFNWA shall produce an Annual Operational Budget (applying earnings before interest, taxes, depreciation, and amortization; EBITDA) which shall

make best efforts to target breakeven levels. Any projected deficits shall be documented in a Management Action Plan to the FMB detailing actions to remediate any projected deficit during the following two fiscal years. The implementation of the Management Action Plan will form part of the overall financial KPI analysis which shall be reviewed based on the following timeline;

- 4.1.1 The AFNWA shall provide the FMB with the Management Action Plan by November 15<sup>th</sup> of the fiscal year under review;
  - 4.1.2 The FMB shall review the Management Action Plan and provide any Information Requests and/or comments and a letter with initial funding recommendations to the AFNWA and ISC by January 31<sup>st</sup> of the fiscal year under review;
  - 4.1.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Management Action Plan and provide it to the FMB by February 28<sup>th</sup> of the fiscal year under review; and
  - 4.1.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Management Action Plan and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by March 31<sup>st</sup> of the fiscal year under review.
- 4.2 The AFNWA shall present the Annual Operational Budget with the same line items as noted in the annual audited financial statement for comparative purposes. If not, AFNWA Management shall contemporaneously provide a reconciliation report assessing the Annual Operational Budget amount versus the specific line items noted in the annual audited financial statement (the “Operational Budget Reconciliation Report”) based on the following timeline;
- 4.2.1 The AFNWA shall provide the FMB with the Operational Budget Reconciliation Report by November 15<sup>th</sup> of the fiscal year under review;
  - 4.2.2 The FMB shall review the Operational Budget Reconciliation Report and provide any Information Requests and/or comments and a letter with initial funding recommendations to the AFNWA and ISC by January 31<sup>st</sup> of the fiscal year under review;
  - 4.2.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Operational Budget Reconciliation Report and

provide it to the FMB by February 28<sup>th</sup> of the fiscal year under review;  
and

4.2.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Operational Budget Reconciliation Report and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by March 31<sup>st</sup> of the fiscal year under review.

4.3 The AFNWA shall provide the FMB with an in-depth analysis, including supporting documents where applicable, to substantiate all changes noted between the proposed Annual Operational Budget under review and the prior year's approved Annual Operational Budget (the "Operational Budget Variance Report") and shall be reviewed based on the following timeline;

4.3.1 The AFNWA shall provide the FMB with the Operational Budget Variance Report by November 15<sup>th</sup> of the fiscal year under review;

4.3.2 The FMB shall review the Operational Budget Variance Report and provide any Information Requests and/or comments and a letter with initial funding recommendations to the AFNWA and ISC by January 31<sup>st</sup> of the fiscal year under review;

4.3.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Operational Budget Variance Report and provide it to the FMB by February 28<sup>th</sup> of the fiscal year under review;  
and

4.3.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Operational Budget Variance Report and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by March 31<sup>st</sup> of the fiscal year under review.

4.4 The Annual Operational Budget shall be reviewed based on the following timeline;

4.4.1 The AFNWA shall provide the FMB with the Annual Operational Budget by November 15<sup>th</sup>, immediately prior to the upcoming fiscal year under review;

4.4.2 The FMB shall review the Annual Operational Budget and provide any Information Requests and/or comments and a letter with initial funding recommendations to the AFNWA and ISC by January 31<sup>st</sup>, immediately prior to the upcoming fiscal year under review;

- 4.4.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Annual Operational Budget and provide it to the FMB by February 28<sup>th</sup>, immediately prior to the upcoming fiscal year under review; and
- 4.4.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Annual Operational Budget and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by March 31<sup>st</sup>, immediately prior to the upcoming fiscal year under review.

## 5. Funding from Indigenous Services Canada

- 5.1 Pursuant to the Funding Agreement between ISC and AFNWA, by November 30<sup>th</sup> of the current fiscal year under review, once ISC has received all reporting letters to date from the FMB as prescribed in these Practice Directives, ISC shall decide whether to release in whole, or in part, the remaining funding to the AFNWA.
- 5.2 The AFNWA shall produce a reconciliation report in each fiscal year, reconciling the Annual Capital Budget, Annual Operational Budget, Five-Year Business Plan, IRP (when available) and Secured Debentures with one another (the “Comprehensive Reconciliation Report”) and shall be reviewed based on the following timeline;
  - 5.2.1 The AFNWA shall provide the FMB with the Comprehensive Reconciliation Report by April 30<sup>th</sup>, immediately following the fiscal year under review;
  - 5.2.2 The FMB shall review the Comprehensive Reconciliation Report and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by May 15<sup>th</sup>, immediately following the fiscal year under review;
  - 5.2.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Comprehensive Reconciliation Report and provide it to the FMB by June 15<sup>th</sup>, immediately following the fiscal year under review; and
  - 5.2.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Comprehensive

Reconciliation Report and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by June 30<sup>th</sup>, immediately following the fiscal year under review.

## 6. Accounting Framework, Financial Standards and Fiscal Policies

- 6.1 The FMB shall conduct an annual review of the AFNWA's compliance with the FMB's NPO Standards and provide the AFNWA with a compliance opinion (the "Compliance Analysis") based on the following timeline;
  - 6.1.1 The FMB shall begin the Compliance Analysis by August 1<sup>st</sup>, immediately following the fiscal year under review. However, recognising that AFNWA may not be in a position to comply with all NPO Standards. The NPO Standards permit normalization as more specifically defined within the NPO Standards;
  - 6.1.2 The FMB shall provide the AFNWA and ISC with any Information Requests and/or the Compliance Analysis by September 30<sup>th</sup>, immediately following the fiscal year under review;
  - 6.1.3 The AFNWA shall respond to any Information Requests, and if necessary, the AFNWA shall provide any comments addressing any deficiencies or identifying any NPO Standards that they are unable to comply with to the FMB by October 31<sup>st</sup>, immediately following the fiscal year under review; and
  - 6.1.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, any comments addressing any deficiencies, and provide the Compliance Analysis, enclosed in a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by November 30<sup>th</sup>, immediately following the fiscal year under review.
- 6.2 The AFNWA shall provide the FMB with summary reports based on its annual reporting requirements with The First Nations and Inuit Health Branch ("FNIHB") and Environment and Climate Change Canada for the calendar year (the "Summary Reports"). The Summary Reports shall be certified as accurate by the AFNWA's CEO and a member of the AFNWA's Board of Directors, and shall be reviewed based on the following timeline;
  - 6.2.1 The AFNWA shall provide the FMB with the Summary Reports by March 31<sup>st</sup>, immediately following the calendar year under review;

- 6.2.2 The FMB shall review the Summary Reports and provide any comments and recommendations to the AFNWA and ISC by April 30<sup>th</sup>, immediately following the calendar year under review;
  - 6.2.3 The AFNWA shall, if necessary, provide its action plan to address any comments and recommendations to the FMB by May 31<sup>st</sup>, immediately following the calendar year under review; and
  - 6.2.4 The FMB shall review the Summary Reports, and if necessary, the AFNWA action plan, and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by June 30<sup>th</sup>, immediately following the calendar year under review.
- 6.3 For items of non-compliance described in Practice Directives 6.1 and 6.2 above, the FMB shall obtain an understanding of whether the non-compliance is significant and provide a reporting letter with comments and recommendations to the AFNWA and ISC upon the same timelines set out above.
- 6.4 The AFNWA shall include the approved Annual Operational Budget within the annual audited financial statement.
- 6.5 The AFNWA shall produce an Annual Vacancies Report, reporting on any AFNWA managerial and Board of Director vacancies and how any vacancies are to be filled, which shall be reviewed based on the following timeline;
- 6.5.1 The AFNWA shall provide the FMB with the Annual Vacancies Report by June 29<sup>th</sup> of the fiscal year under review;
  - 6.5.2 The FMB shall review the Annual Vacancies Report and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by August 31<sup>st</sup> of the fiscal year under review;
  - 6.5.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Annual Vacancies Report and provide it to the FMB by September 30<sup>th</sup> of the fiscal year under review; and
  - 6.5.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Annual Vacancies Report and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by November 30<sup>th</sup> of the fiscal year under review.



## 7. Five-Year Business Plans

- 7.1 The AFNWA shall develop a Five-Year Business Plan (the first Five-Year Business Plan will be made available March 31, 2025) which is made public to all participating communities<sup>1</sup> and include items such as, but not limited to the following:
- 7.1.1 Mission;
  - 7.1.2 Vision;
  - 7.1.3 Short-term goals (1-3 Years) and corresponding action plan;
  - 7.1.4 Long-term goals (3-5 Years) and corresponding action plan;
  - 7.1.5 Five-year financial plan; and
  - 7.1.6 A disclosure note regarding there being no established reserve fund and ISC's corresponding commitment to fund the AFNWA for future water and wastewater replacement, in accordance with the Funding Agreement.
- 7.2 The Five-Year Business Plan shall be updated every twenty-four (24) months and reviewed based on the following timeline;
- 7.2.1 The AFNWA shall provide the FMB with its Five-Year Business Plan by March 31<sup>st</sup>, immediately prior to the upcoming period under review;
  - 7.2.2 The FMB shall review the Five-Year Business Plan and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by April 30<sup>th</sup> of the first fiscal year of the five-year-period under review;
  - 7.2.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Five-Year Business Plan and provide it to the FMB by May 31<sup>st</sup> of the first fiscal year of the five-year-period under review; and
  - 7.2.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Five-Year Business Plan, and provide a reporting letter based on its observations with comments and recommendations to the AFNWA

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<sup>1</sup> All Participating Communities will be given access to all prior Five-Year Business Plans.

and ISC by June 30<sup>th</sup> of the first fiscal year of the five-year-period under review.

## 8. Performance Outcomes Including Levels of Service

- 8.1 The AFNWA shall provide the FMB with a report outlining the Key Performance Indicators (“KPI”)<sup>2</sup> along with AFNWA Management commentary and an explanation of the results by the following dates:
  - 8.1.1 The AFNWA shall provide the FMB with the Operational KPI’s by June 29<sup>th</sup> of the current fiscal year under review;
  - 8.1.2 The FMB shall review the Operational KPI’s and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by August 31<sup>st</sup> of the current fiscal year under review;
  - 8.1.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Operational KPI’s and provide it to the FMB by September 30<sup>th</sup> of the current fiscal year under review;
  - 8.1.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Operational KPI’s, and provide a reporting letter based on its observations with comments and recommendations to the AFNWA and ISC by November 30<sup>th</sup> of the current fiscal year under review;
  - 8.1.5 The AFNWA shall provide the FMB with the Financial KPI’s by July 29<sup>th</sup> of the current fiscal year under review;
  - 8.1.6 The FMB shall review the Financial KPI’s and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by August 31<sup>st</sup> of the current fiscal year under review;
  - 8.1.7 The AFNWA shall respond to any Information Requests, and if necessary, revise the Financial KPI’s and provide it to the FMB by September 30<sup>th</sup> of the current fiscal year under review; and
  - 8.1.8 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Financial KPI’s, and provide a reporting letter based on its observations with

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<sup>2</sup> Enclosed within these Practice Directives is Appendix “B” containing the Operational and Financial KPIs.

comments and recommendations to the AFNWA and ISC by November 30<sup>th</sup> of the current fiscal year under review.

## 9. Integrated Resource Plans

- 9.1 The AFNWA shall develop an IRP every 5 years.
- 9.2 The AFNWA will develop the IRP based on a 25 year time horizon.
- 9.3 Upon receipt of the IRP by the AFNWA, the FMB shall set a timetable for review having consulted with the AFNWA. Following the review;
  - 9.3.1 The FMB shall provide a reporting letter based on its observations with comments and recommendations to the AFNWA and ISC by the agreed upon timeline.

## 10. Development Charges

- 10.1 The rates charged to recover costs associated with economic development by the AFNWA shall at minimum cover the operating and capital costs for each fiscal year. Charges should be equitably assigned to those who receive the benefits.
- 10.2 The AFNWA shall inform the FMB of any development charges assessed by the AFNWA within five (5) business days of AFNWA Board approval.
- 10.3 The AFNWA shall provide the FMB with a reconciliation report comparing the operating and capital costs versus revenues from the rates charged (the "Development Charges Reconciliation Report") and shall be reviewed based on the following timeline;
  - 10.3.1 The AFNWA shall provide the FMB with the Development Charges Reconciliation Report for the preceding fiscal year by July 29<sup>th</sup>, immediately following the fiscal year under review;
  - 10.3.2 The FMB shall review the Development Charges Reconciliation Report and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by September 30<sup>th</sup>, immediately following the fiscal year under review;
  - 10.3.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Development Charges Reconciliation Report

and provide it to the FMB by October 31<sup>st</sup>; immediately following the fiscal year under review; and

10.3.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Development Charges Reconciliation Report and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by November 30<sup>th</sup>. immediately following the fiscal year under review.

10.4 The AFNWA shall perform an assessment of any overdue balances and include an allowance for doubtful accounts (the “Assessment of Overdue Balances Report”) and shall be reviewed based on the following timeline;

10.4.1 The AFNWA shall provide the FMB with the Assessment of Overdue Balances Report by July 29<sup>th</sup>, immediately following the fiscal year under review;

10.4.2 The FMB shall review the Assessment of Overdue Balances Report and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by August 31<sup>st</sup>, immediately following the fiscal year under review;

10.4.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Assessment of Overdue Balances Report and provide it to the FMB by September 30<sup>th</sup>, immediately following the fiscal year under review; and

10.4.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Assessment of Overdue Balances Report and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by November 30<sup>th</sup>, immediately following the fiscal year under review.

## 11. Secure Debentures

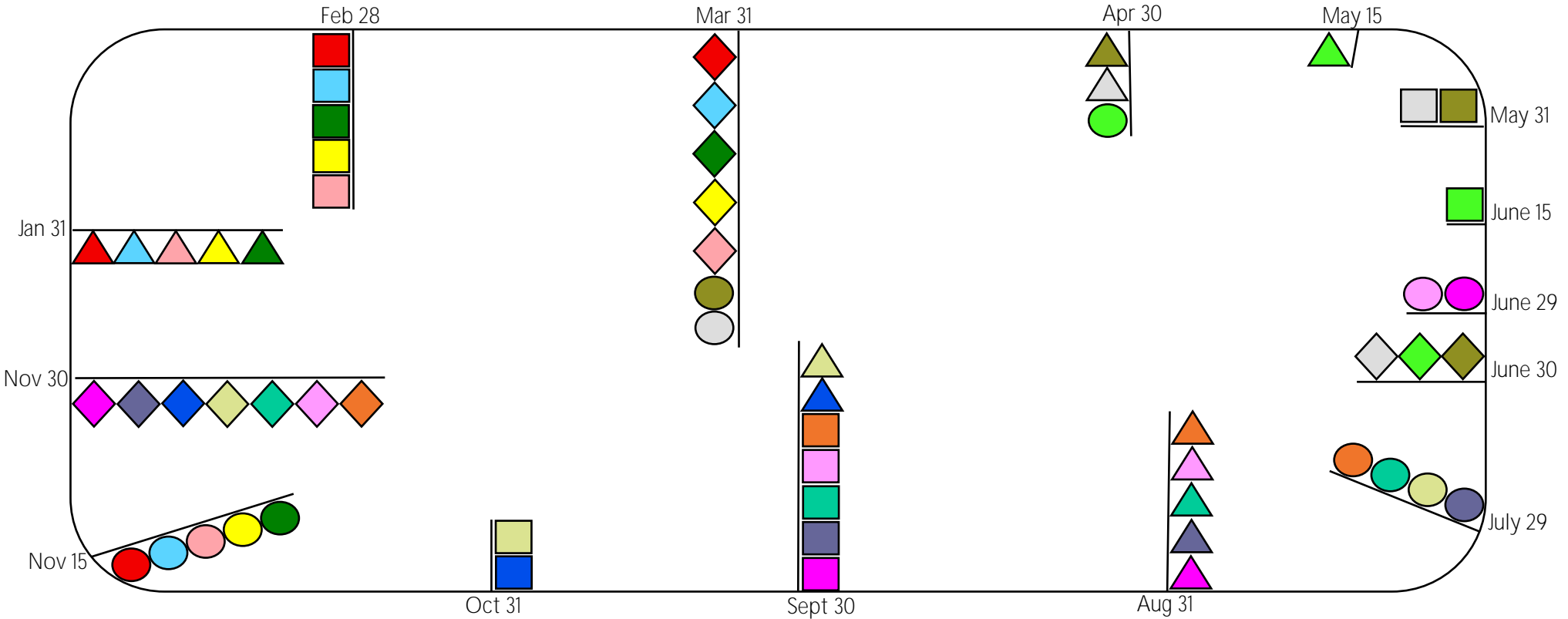
11.1 The AFNWA shall provide the FMB with a financial viability analysis, an operational feasibility study and a finance alternative analysis (the “Pre-borrowing Reports”) prior to any borrowings and shall be reviewed based on the following timeline;

- 11.1.1 The AFNWA shall provide the FMB with the Pre-borrowing Reports by March 31<sup>st</sup>, immediately following the fiscal year under review;
- 11.1.2 The FMB shall review the Pre-borrowing Reports and provide any Information Requests and/or comments and recommendations to the AFNWA and ISC by April 30<sup>th</sup>, immediately following the fiscal year under review;
- 11.1.3 The AFNWA shall respond to any Information Requests, and if necessary, revise the Pre-borrowing Reports and provide it to the FMB by May 31<sup>st</sup>, immediately following the fiscal year under review; and
- 11.1.4 The FMB shall review any responses by the AFNWA to any Information Requests, and if necessary, the revised Pre-borrowing Reports and provide a reporting letter, based on its observations with comments and recommendations to the AFNWA and ISC by June 30<sup>th</sup>, immediately following the fiscal year under review.

# Appendix "A"

## YEARLY REVIEW/REPORTING TIMELINES

AFNWA Initial Report/Response =	●	FMB Initial Report/Response =	▲	AFNWA Final Report/Response =	■	FMB Final Report/Response =	◆
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Annual Capital Budget	Comprehensive Reconciliation Report	Operational Budget Variance Report
Annual Operational Budget	Development Charges Reconciliation Report	Operational KPI's
Annual Vacancies Report	Financial KPI's	Pre-Borrowing Reports
Assessment of Overdue Balances Report	Management Action Plan	Summary Reports
Compliance Analysis	Operational Budget Reconciliation Report	Variance Analysis Report

AFNWA Initial Report/Response =	●	FMB Initial Report/Response =	▲	AFNWA Final Report/Response =	■	FMB Final Report/Response =	◆
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**CONTINUOUS REVIEW/REPORTING TIMELINES**

Large Capital Applications	●	8 weeks later	▲	4 weeks later	■	4 weeks later	◆
Development Charge Reconciliation Report	●	4 weeks later	▲	4 weeks later	■	4 weeks later	◆

**5-YEAR REVIEW/REPORTING TIMELINES**

Five-Year Business Plan	●	▲	■	◆
	= March 31 (FY0)	= April 30 (FY1)	= May 31 (FY1)	= June 30 (FY1)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
Five-Year Business Plan #1		[Apr 1, 2025 – March 31, 2030]								
	Five-Year Business Plan #2					[Apr 1, 2027 – March 31, 2032]				
		Five-Year Business Plan #3				[Apr 1, 2029 – March 31, 2034]				
			Five-Year Business Plan #4						[Apr 1, 2031 – March 31, 2036]	

**TIMELINE SHALL BE SET UPON AGREEMENT BETWEEN AFNWA/FMB**

Deliverable	Timeline
IRP	TBD
IRP Reconciliation Report	TBD

**Appendix “B”**

**OPERATIONAL KPI**

<b>Name</b>	<b>Purpose</b>	<b>Evaluation Method</b>	<b>Benchmark</b>
Treated Water	Attain prescribed standards for water related health and safety in Participating Communities	Percentage of water systems with treated water in Participating Communities meeting prescribed standards as set out in the Health Canada Guidelines for Canadian Drinking Water Quality	100% by 03.31.28
Treated Effluent	Attain prescribed standards for wastewater related health and safety in Participating Communities	Percentage of wastewater systems producing treated effluent in Participating Communities meeting prescribed requirements as set out in the Government of Canada’s Wastewater System Effluent Regulations	100% by 03.31.28
Certified Operators	Obtain required provincial operator certification levels	Percentage of total operators certified to the level of systems they operate	100% by 03.31.32
Operator Compensation	Attract skilled operators	Percentage of total operators receiving market-rate compensation	100% by 03.31.25
Water Risk Ratings	Achieve low risk assessment for public water systems	Percentage of public water systems that have low risk ratings <sup>1</sup> in Participating Communities	100% by 03.31.32
Wastewater Risk Ratings	Achieve low risk assessment for public wastewater systems	Percentage of public wastewater systems that have low risk ratings in Participating Communities	100% by 03.31.32
Operator Training Plan	Under-trained operators to develop a training plan to reach certification	Percentage of under-trained operators who have a training plan in place to reach certification to the level of systems they operate	100% by 03.31.25
Technical Support Response	Provide technical support response in operation and maintenance	Average first response time to reply to operation and maintenance queries related to water and wastewater systems in Participating Communities	*
Service Disruption Resolution	Provide technical support resolution in operation and maintenance	Average length of service disruption for operation and maintenance queries related to water and wastewater systems in Participating Communities	*
Connection Time	Provide timely service connection	Average length of time to approve a new connection to water and wastewater services	*
Water Loss	Limit water loss	Litres of water loss per connection per day	**
Unplanned Effluent Discharge	Attain health and safety standards in Participating Communities	Unplanned effluent discharge (expressed in number of unplanned incidents and total volume discharged)	**
Staff Retention	Retain staff to build capacity	Total number of staff turnover	**

<sup>1</sup> Risk rating refers to the Annual Performance Inspections assessing five main components of a system. The five main components are based on a weighted average of: water source and the wastewater effluent receiver (10%); system design (30%); operation and maintenance (30%); level of training and certification of operators (20%); and reporting and record keeping (10%). This assessment does not test the water itself as that work is completed by other environmental regulators.



## FINANCIAL KPI

Name	Purpose	Evaluation Method	Benchmark
Timely Financial Reporting of the Annual Audited Financial Statements	Ensure the audited financial statements are approved and issued in a timely manner	Approval: Date of audit report  Issuance: Date of receipt of audit financial statements	Approval: On or before July 29 <sup>th</sup> immediately following the fiscal year under review  Issuance: On or before September 27 <sup>th</sup> immediately following the fiscal year under review
Accuracy of Annual Audited Financial Statements	Ensure the annual audited financial statements are reasonably stated	Unqualified audit opinion	Unqualified audit report
Accuracy of Operational and Capital Budgets	Ensure operational and capital budgets are accurate	Variance analysis (expressed in +/- percentage) between the approved operational and capital budget amount versus actual	Budget-to-actuals to be within +/- 10%
Implementation of Management Action Plan	Ensure that the Management Action Plan (if applicable) has been executed	Actionable items contained within the Management Action Plan have been successfully executed to remediate any projected deficits	Projected deficits have been mitigated
Financial Solvency	Ensure AFNWA remains solvent between initial ISC payment and holdback period	Future 12-month cashflow projection	Positive cash flow position for the 12 month period under review
Cost Per Service Connection	Ensure financial viability of new service connections for water and wastewater systems	Cost per service connection for water and wastewater systems	**

\* No historical data available / established process for monitoring. AFNWA to develop and implement a monitoring process for F23/24, track data for F24/25 and established a benchmark for F25/26.

\*\* No historical data available. Data to be tracked during F23/24. A revised benchmark will be implemented for F24/25.

General Note: It is anticipated that with experience these KPIs will be revised and the corresponding benchmarks will improve over time.

# FIRST NATIONS FINANCIAL MANAGEMENT BOARD

## RULES OF PRACTICE AND PROCEDURE RESPECTING REGULATORY PROCEEDINGS

### APPLICATION OF RULES

- 1 These Rules are made to facilitate proceedings before the Board. Until the enactment of enabling legislation, the Board does not have the legislative authority to approve or dismiss applications and shall only provide recommendations to the Atlantic First Nations Water Authority Inc. and Indigenous Services Canada.

### SHORT TITLE

- 2 These Rules may be cited as the *Board Regulatory Rules*.

### OBJECT

- 3 The object of these Rules is to secure the just, speedy and economic determination of every application on its merits.

### DEFINITIONS

- 4 In these Rules, unless the context otherwise requires:
- (a) "applicant" shall include the Atlantic First Nations Water Authority Inc. and any other person or corporation applying to the Board to hear and determine any matter or thing;
  - (b) "application" shall include any proceeding, matter or thing which the Board can determine;
  - (c) "Board" means the First Nations Financial Management Board, established under the *First Nations Fiscal Management Act*, SC 2005, c 9;
  - (d) "Clerk" means the Clerk of the Board;
  - (e) "intervenor" means a person who establishes an interest in an application pursuant to Rule 12;
  - (f) "party" means, in respect of an application, an applicant, a respondent or an intervenor;
  - (g) "respondent" shall include any person or corporation adverse in interest to an applicant or entitled to be heard in opposition to any application;

### GENERAL

- 5
- (1) Where procedures are not provided for in these Rules or in an enactment, the Board may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on the matter before it.
  - (2) The Board may dispense with, amend, vary or supplement, with or without a hearing, all or part of these Rules at any time by making a procedural order, if it is satisfied that the special circumstances of the application so require, or it is in the public interest to do so.
  - (3) The Board may make directions on procedure and procedural orders which shall govern the conduct of a specific application.
  - (4) The Board may extend or abridge the time fixed by these Rules or otherwise fixed by the Board, and may do so on its own initiative or in response to a motion by any party whether or not the motion to extend or abridge the time is made after the time so fixed has expired.

(5) Unless otherwise specified, where these Rules or a Board order make reference to the number of days between two (2) events, not expressed to be clear days, the number of days shall be calculated by excluding the day on which the first event happens and including the day on which the second event happens. If the last day falls on a day the Board offices are closed, the time shall automatically be extended to the next business day.

(6) No application before the Board shall be defeated or affected by any technical objection or by any objection based upon defects in form or procedure.

## PRACTICE DIRECTIVES

6 In addition to these Rules, the Board may issue practice directives which the Board considers necessary for the administration and carrying out of these provisions and to enable it to effectively and completely adjudicate on the matter before it.

## APPLICATIONS

7 Every application shall:

- (a) contain a proposed title of the application;
- (b) contain a clear and concise statement of the facts;
- (c) set forth the reasons for the application;
- (d) contain the statutory provision(s), if any, under which it is made;
- (e) set forth the nature of the order or decision applied for;
- (f) be divided into consecutively numbered paragraphs, each of which is confined as nearly as possible to a distinct portion of the subject of the application;
- (g) be signed by the applicant or the applicant's representative;
- (h) provide the full name, address and the telephone, fax and electronic access numbers of the applicant and the applicant's representative; and
- (i) provide any other information that may be useful in explaining or supporting the application in order for the Board to have sufficient information to adjudicate the application.

## FILING

8

- (1) Any document to be filed with the Board shall be filed with the Clerk.
- (2) A document may be filed with the Clerk by any of the following methods:
  - (a) delivering a copy to the Clerk at the Board's office;
  - (b) mailing a copy to the Clerk;
  - (c) transmitting a copy to the Clerk via fax or e-mail; or
  - (d) such other manner as the Board may determine.
- (3) All documents filed pursuant to Rule 8(2) shall be date stamped either manually or electronically upon receipt by the Board and any document filed with the Board after 2:00 p.m. PST or on a Saturday, Sunday or holiday shall be considered filed on the next working day.
- (4) When a document is filed with or served on the Board by e-mail transmission or fax, the sender shall obtain an acknowledgment from the Clerk of its receipt.

- (5) In all cases where documentary evidence is offered, the Board, in lieu of requiring the originals thereof to be filed, may accept true copies of such evidence or such parts of the same as may be relevant.
- (6) The Board may reject requests for intervenor status, submissions of evidence and information requests and any other documents which are not filed in accordance with the schedule set by the Board in an application.

## SERVICE

9

- (1) Where any document is required to be served on a party, service shall be effected by any of the following methods:
  - (a) personal service;
  - (b) delivering a copy to the party's proper address;
  - (c) sending a copy by ordinary mail addressed to the party at his or her proper address;
  - (d) transmitting a copy to the party via fax or e-mail, where the party has provided a fax number or e-mail address; or
  - (e) such other manner as the Board may determine.
- (2) Where the party is represented, service of a document shall be effected on the party when served on the party's representative and any of the methods of service set out in Rule 9(1) may be used for this purpose.
- (3) Service of a document may be proven by affidavit evidence.
- (4) When a document is served on a party by e-mail transmission, a hard copy or fax of the document shall be provided within a reasonable period thereafter if requested by the recipient.

## ORAL OR WRITTEN HEARINGS

10

- (1) An application will be disposed of by way of written hearing in the normal course.
- (2) Notwithstanding Rule 10(1), where the Board deems it necessary at any time during an application, the Board may order that the application be disposed of by an oral hearing in substitution for a written hearing.

## HEARING ORDERS

11

- (1) Within thirty (30) days of an application being filed, the Board shall issue a hearing order containing the procedural details applicable to the hearing, accompanied by a notice of hearing.
- (2) Where the Board issues a notice of hearing in accordance with Rule 11(1), the applicant shall, within such time limit as the Board may direct,
  - (a) publish the notice in such publications as the Board may direct; and
  - (b) serve a copy of the notice on such persons as the Board may direct.
- (3) An applicant referred to in Rule 11(2) shall file with the Board an affidavit that sets out the title and date of each publication in which the notice of hearing was published pursuant to Rule 11(2)(a) and the means taken to effect service pursuant to Rule 11(2)(b).
- (4) Where the Board issues a hearing order, it may direct that:

- (a) the applicant shall keep available at the applicant's business address, for public inspection during regular business hours, a copy of the application;
  - (b) the Board shall keep available for public inspection at the offices of the Board a copy of the application and all non-confidential documents related thereto.
- (5) Where the Board does not issue a hearing order, it shall notify interested persons of the hearing and the procedure to be followed in respect thereof.

## INTERVENORS

12

- (1) Where a hearing order has been issued pursuant to Rule 11(1), any interested person may apply to intervene by filing with the Board and serving on the applicant, if any, on or before the date set out in the order, a written request to intervene that:
  - (a) sets out the name of the person and any authorized representative of the person and the mailing address, address for personal service, telephone number and any other telecommunications numbers of the person or the person's authorized representative;
  - (b) sets out the facts and reasons why the person has an interest in the application; and
  - (c) states the issues that the person intends to address at the hearing.
- (2) The Board may accept or disallow an intervention and in either case, the Board shall notify the applicant, if any, and the person who filed the request to intervene of its decision in respect of the intervention.
- (3) An intervenor, on being advised by the Board of the name and mailing address of any other intervenor, shall serve a copy of the written intervention on every other intervenor.
- (4) A party may, within fifteen (15) days after the date of service of a written intervention, serve an objection to the intervention on the person who has filed the intervention and shall file with the Board and serve on all other parties a copy of the objection.
- (5) Unless the Board otherwise directs, an applicant who is notified that an intervention has been accepted by the Board in accordance with Rule 12(2) shall, within such time limit as the Board may fix, serve on the intervenor:
  - (a) a copy of the application;
  - (b) subject to Rule 13, any information, particulars or documents relevant to the application that have been filed with the Board; and
  - (c) any hearing order issued by the Board.
- (6) Where a hearing order has been issued pursuant to Rule 11(1), any interested person who does not wish to intervene in the application but who wishes to make comments to the Board regarding the application shall file with the Board and serve on the applicant, if any, on or before the date set out in the order, a letter of comment that:
  - (a) comments on the application;
  - (b) describes the nature of the person's interest in the application; and
  - (c) provides any relevant information that the person considers will explain or support the person's comments.
- (7) The Board shall provide all parties with a copy of any letter filed pursuant to Rule 12(6).
- (8) A party may, within fifteen (15) days after receipt of a letter filed pursuant to Rule 12(6), serve a reply on the person who has filed the letter and shall file with the Board and serve on all other parties a copy of the reply.

- (9) A person who files a letter pursuant to Rule 12(6):
  - (a) does not thereby acquire status as an intervenor;
  - (b) loses intervenor status if that person is an intervenor; and
  - (c) subject to Rule 12(8), is not entitled to any further notice in the application.

## CONFIDENTIAL DOCUMENTS

13

- (1) Subject to Rule 13(2), all documents filed in respect of an application shall be placed on the public record.
- (2) A party may request that all or any part of the document be held in confidence by the Board, which request shall be placed on the public record.
- (3) The burden of satisfying the Board that a document should be held in confidence is on the party claiming confidentiality.
- (4) Any request for confidentiality shall:
  - (a) include a summary of the nature of the information in the document;
  - (b) state:
    - (i) the reasons for the request, including the details of the nature and extent of the specific harm that would result if the document were publicly disclosed, and
    - (ii) any objection to placing an abridged version of the document on the public record, and the reasons for such an objection; and
  - (c) be filed with the Board and served on the parties.
- (5) Where a party has made a request under Rule 13(2), the document shall be held in confidence unless the Board orders otherwise.
- (6) A party may object to a request for confidentiality by filing an objection and serving the objection on the parties.
- (7) An objection shall state the reasons:
  - (a) why the party requires disclosure of the document; and
  - (b) why disclosure would be in the public interest
- (8) The party claiming confidentiality will have an opportunity to reply to any objection.
- (9) The Board may decide the issue with or without a hearing. Where the Board holds a hearing, the Board may direct that the hearing be held in the absence of the public.
- (10) In ruling on a request for confidentiality the Board shall consider:
  - (a) whether the document may disclose matters involving public security;
  - (b) whether the document may disclose sensitive financial, commercial or personal matters in relation to which the desirability of avoiding disclosure in the interest of any person affected outweighs the desirability of adhering to the principle that documents be available to the public; or
  - (c) such other matters as the Board deems appropriate.

- (11) The Board may:
- (a) order that the document be held in confidence by the Board;
  - (b) order that the document be placed on the public record;
  - (c) order that an abridged version of the document be placed on the public record;
  - (d) order that the document be made available to a party to the proceeding, who has a good faith interest in accessing the confidential information and who would not otherwise be in a conflict of interest, on such terms as the Board considers appropriate, including the signing of a confidentiality undertaking in a form approved by the Board;
  - (e) order that the document be withdrawn; and
  - (f) make any other order the Board may deem to be in the public interest.
- (12) Where the Board rejects a claim for confidentiality, the party claiming confidentiality may, within seven (7) days of receiving the Board's decision, or such other time as the Board may allow, notify the Board in writing that:
- (a) if the party is an applicant, the application is withdrawn; or
  - (b) if the party is an intervenor, the intervention is withdrawn.
- (13) Where a party provides written notice to the Board pursuant to Rule 13(12), if the document is on file with the Board, the Board shall immediately return the documents for which confidentiality was claimed.

#### AMENDMENT

14 A filed document may be amended at any time with leave of the Board.

#### ADMISSION OF FACTS

15

- (1) The parties to any application before the Board may, by admission in writing filed with the Board, agree upon the facts or any of the facts involved therein, which admission, if filed, shall be regarded and used as evidence at such hearing, investigation or other proceeding.
- (2) The Board may require such additional evidence as it may deem necessary.

#### INFORMATION REQUESTS

16

- (1) The Board may provide for Information Requests necessary to:
- (a) clarify evidence filed by a party;
  - (b) simplify the issues;
  - (c) permit a full and satisfactory understanding of the matters to be considered; or
  - (d) expedite the application.
- (2) An Information Request shall be in accordance with Form A and shall:
- (a) be directed to the party from whom the response is sought;
  - (b) number the questions consecutively, or as otherwise directed by the Board, in respect of each item of information requested;

- (c) list the name, address and telephone and fax numbers of persons who may be contacted in case clarification of questions is required;
  - (d) be forwarded to the party from whom a response is sought, with copies being sent simultaneously to the Board and all other parties.
- (3) An Information Request shall not be directed to any party upon whose behalf no evidence has been filed, without leave of the Board or consent of the party from whom a response is sought.
- (4) A party seeking leave under Rule 16(3) shall, within any time limit fixed by the Board, file with the Board and serve on the party to whom the Information Request is directed, the proposed Information Request and the reasons therefor.
- (5) The Board shall not grant leave pursuant to Rule 16(3) unless the party to whom the Information Request is directed has been given an opportunity to comment on the proposed Information Request.

17

- (1) Subject to Rule 17(3), where an Information Request has been directed to a party, that party shall file a Response to Information Request within the time fixed by the Board.
- (2) A Response to Information Request shall be in accordance with Form B and shall:
- (a) provide a full and adequate response to each question;
  - (b) state the question at the beginning of each response;
  - (c) begin each response on a new page;
  - (d) number each response to correspond with each item of the Information Request;
  - (e) specify which person prepared the response;
  - (f) file and serve the Response to Information Request as directed by the Board; and
  - (g) set out the date on which the Response to Information Request is filed and served.
- (3) A party who is unable or unwilling to provide a full and adequate response to a question in an Information Request shall file and serve a response:
- (a) where the party contends that the information requested is not relevant, setting out specific reasons in support of that contention;
  - (b) where the party contends that the information necessary to provide an answer is not available or cannot be provided with reasonable effort, setting out the reasons why the information is unavailable and providing any alternative available information that the party considers would be of assistance to the party directing the Information Request;
  - (c) where the party contends that the information sought is of a privileged nature, setting out the reasons why it is considered privileged;
  - (d) where the party contends that the information sought is of a confidential nature, requesting that it be held in confidence, or not filed, pursuant to Rule 13; and
  - (e) otherwise explaining why such a response cannot be given.
- (4) Where a party is not satisfied with the response provided or objects to a claim of privilege, the party may apply to the Board for directions.



## ISSUES

18

- (1) The Board may formulate issues to be considered in an application and shall notify parties in respect thereof if, in the opinion of the Board:
  - (a) the formulation of issues would assist the Board in the conduct of the application; and
  - (b) the formulation of issues would assist the parties in participating more effectively in the application.
- (2) To assist the Board in formulating issues in accordance with Rule 18(1), the Board may invite parties to propose issues or to suggest amendments to any formulated issues.
- (3) Any party who proposes an issue pursuant to Rule 18(2) shall explain the issue's relevance to the application.
- (4) Notwithstanding the above, the Board may direct that certain issues or items will be excluded from consideration during the application.
- (5) In an attempt to avoid multiplicity of proceedings on the same issue, the Board may, in any decision, identify issues that will not be revisited until a specified time period has elapsed, absent a significant change in circumstances, or other reason which, in the opinion of the Board, justifies an earlier consideration.

## WRITTEN SUBMISSIONS

19

- (1) The Board may direct parties to make written submissions for the purpose of considering matters that relate to:
  - (a) the clarification or simplification of issues;
  - (b) the necessity or desirability of amending an application;
  - (c) the admission of certain facts or the verification of those facts by affidavit, or the use by any party of documents of a public nature;
  - (d) the settling of matters that relate to information requests;
  - (e) the procedure to be adopted in the application;
  - (f) the exchange of documents among the parties; and
  - (g) any other matter that could aid in the conduct and disposition of the application.

## HEARINGS

20

- (1) Written or oral hearings may be conducted in an informal manner and need not follow the strict rules of practice and procedure required in a court of law.
- (2) The Board may, at its discretion, conduct a hearing or a preliminary hearing in person, in writing or by teleconference, video conference or by any other electronic means.
- (3) At the hearing of an application, the applicant shall present its evidence first, and after the evidence of all other parties is given, shall have the right to reply.
- (4) At any oral hearing, a party may call and examine witnesses, cross-examine opposing witnesses and present arguments and submissions.

- (5) The Board may receive in evidence any statement, document, information or matter that, in the opinion of the Board, may assist it to deal with the matter before the Board whether or not the statement, document, information or matter is given or produced under oath or would be admissible as evidence in a court of law.
- (6) A party may be represented before the Board by counsel or an agent.
- (7) A hearing may be adjourned from time to time by the Board on reasonable grounds on its own motion or at the request of any party.
- 21 The Board, whenever it deems it desirable, may require briefs to be filed by the parties within such time as the Board may prescribe.
- 22 The Board may issue a decision in several parts if it is determined by the Board to be in the public interest to do so.

#### AUDIO AND VIDEO RECORDING OF HEARINGS

- 23
- (1) Audio and video recording of an oral or electronic hearing which is open to the public may be permitted on conditions the Board considers appropriate.
- (2) The Board may refuse to permit the recording of all or any part of an oral or electronic hearing if, in the opinion of the Board, such coverage would inhibit specific witnesses or disrupt the hearing in any way.
- (3) Where recording is allowed, the following shall apply unless otherwise directed by the Board:
- (a) only equipment which does not produce distracting sound or light shall be used;
- (b) where possible, existing audio systems present in the hearing room shall be used;
- (c) media personnel shall not move about while the hearing is in progress; and
- (d) equipment shall be positioned unobtrusively before the hearing begins and shall not be relocated while the hearing is in progress.

#### DISPOSAL OF EXHIBITS

- 24
- (1) A person who has submitted exhibits to the Board may request that the Board return the exhibits.
- (2) The Board, at the end of six (6) months from the date of the final order in the application, provided no appeal or judicial review has been commenced within that time, may return requested exhibits and may destroy any remaining exhibits.

#### PRODUCTION OF DOCUMENTS AND DISCOVERY

- 25 The Board may make orders for production of documents, for inspection and for examination.
- 26 A party may give another party notice in writing to produce any documents which relate to any matter in question between the parties, which are in the custody, power or possession of said other party, and if such notice be not complied with secondary evidence of such documents may be given.
- 27 A party may be called upon by any other party, by notice in writing, to admit any document which requires to be proven, saving all just exceptions; and in default of notice to admit, the costs of proving the document shall not be allowed except where, in the opinion of the Board, the omission to give notice was a saving of expense.

Form A – Information Request  
First Nations Financial Management Board

IN THE MATTER OF AN APPLICATION [name of applicant]

INFORMATION REQUEST

To: [name of party from whom information is sought]

From: [name of party requesting information]

Responses due by: [as directed by pre-hearing order or the Board Clerk]

Questions:

1. [questions to be numbered consecutively]

2. etc.

Copies: [as directed by pre-hearing order or the Board Clerk]

Contact person: [name, address and telephone/fax numbers of persons who may be contacted in case clarification of questions is required]

Issued at Vancouver, British Columbia, this \_ day of (month), 202\_.

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Clerk of the Board

Form B – Response to Information Request  
First Nations Financial Management Board

IN THE MATTER OF AN APPLICATION [name of applicant]

RESPONSE TO INFORMATION REQUEST

To: [name of party (or Board) requesting information]

From: [name of party information requested from]

Question 1. [repeat the question asked]

Response 1. [response – attach any schedules and attachments relating to this response]

\*\* [each response must start on a separate page and must include the heading as above]

[date that response is filed with the Board]