

**Title 1. Government and Finances – Chapter 121**  
**Twahwistatye?nítha?**

*We have a certain amount of money*

**BUDGET MANAGEMENT AND CONTROL**

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**121.1. Purpose and Policy**

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation’s budget.

121.1-2. *Policy.* It is the policy of the Nation to rely on value-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement.

**121.2. Adoption, Amendment, Repeal**

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and emergency amended by resolutions BC-11-24-20-E, and BC-05-12-21-C.

121.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**121.3. Definitions**

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Appropriation” means the legislative act of designating funds for a specific purpose in accordance with the provisions contained in this law.

(b) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000.00), but the total purchase price for all of the items is ten thousand dollars (\$10,000.00) or more.

(c) “Capital improvement” means non-recurring expenditure for physical improvements,

including costs for: acquisition of existing buildings, land, or interests in land; construction of new buildings or other structures, including additions and major alterations; acquisition of fixed equipment; landscaping; physical infrastructure; and similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or more.<sup>1</sup>

(d) “CFO” means the Nation’s Chief Financial Officer.

(e) “Debt” means the secured or unsecured obligations owed by the Nation.

(f) “Economic life” means the length of time an asset is expected to be useful.

(g) “Executive manager” means any one of the following positions within the Nation: Chief Executive Officer/General Manager, Gaming General Manager, Chief Legal Counsel and/or Chief Financial Officer.

(h) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities and a statement of financial position.

(i) “Fiscal year” means the one (1) year period each year from October 1<sup>st</sup> to September 30<sup>th</sup>.

(j) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(k) “General reserve fund” means the Nation’s main operating fund which is used to account for all financial resources not accounted for in other funds.

(l) “GTC allocations” means expenditures directed by the General Tribal Council as required payments and/or benefits to the Nation’s membership and are supported by either a General Tribal Council or Oneida Business Committee resolution.

(m) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(n) “Manager” means the person in charge of directing, controlling and administering the activities of a fund unit.

(o) “Nation” means the Oneida Nation.

(p) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and enforce this law.

(q) “Treasurer” means the elected Oneida Nation Treasurer or his or her designee.

#### **121.4. Strategic Planning**

121.4-1. *Triennial Strategic Plan.* Prior to December 1<sup>st</sup> of each year, the Oneida Business Committee, in consultation with the Executive Managers, shall develop a triennial strategic plan which includes, but is not limited to:

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<sup>1</sup> Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in the definition of “Capital Improvement.”

- (a) Major policy and budgetary goals for the Nation, both long and short term;
- (b) Specific strategies and planned actions for achieving each goal; and
- (c) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:
  - (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
  - (2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.

121.4-2. *Fund Units' Contributions to the Triennial Strategic Plan.* Managers shall annually develop, submit and maintain a triennial strategic plan for the fund unit's operations which aligns with the triennial strategic plan established by the Oneida Business Committee pursuant to 121.4-1. Managers shall submit the fund unit's triennial strategic plan to the CFO when the fund unit's budget is due and, at a minimum, shall include the following in the plan:

- (a) A statement of the fund unit's mission;
- (b) Specific goals including a description of the fund unit's strategies as part of its service group provided in 121.5-3(c) which aligns with the goals established in the Nation's triennial strategic plan;
- (c) Specific strategies for achieving each of the fund unit's goals; and
- (d) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:
  - (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
  - (2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.

121.4-3. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO, executive managers and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. The Oneida Business Committee shall approve, by resolution, the budget contingency plan and any amendments thereto. The Oneida Business Committee is responsible for the implementation of the budget contingency plan, provided that such implementation is predicated on the Oneida Business Committee's determination that the Nation is under extreme financial distress. For the purposes of this section, extreme financial distress includes, but is not limited to, natural or human-made disasters, United States Government shutdown, Tribal shutdown (which occurs when the General Tribal Council has not approved a budget for the Nation prior to the beginning of a new fiscal year) and economic downturns.

- (a) *Cost Savings Tools.* As part of the budget contingency plan, the Oneida Business Committee may require stabilization funds, reductions of expenditures, furloughs and other cost saving tools provided that such tools are in compliance with the Nation's laws, specifically the Nation's employment laws, rules and policies.
- (b) *Business Continuity Fund.* The Oneida Business Committee shall maintain a Permanent Executive Contingency account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of business continuity funds required in the Permanent Executive Contingency account. The Treasurer shall set aside business continuity funds in the Permanent Executive Contingency account until the established

level has been achieved. Funds in the Permanent Executive Contingency may only be used for the following purposes and only to the extent that alternative funding sources are unavailable:

- (1) Payments to notes payable to debt service, both principal and interest, and applicable service fees;
- (2) Employee payroll, including all applicable taxes;
- (3) Payments to vendors for gaming and retail;
- (4) Payments to vendors for governmental operations;
- (5) Payments to any other debt; and
- (6) To sustain any of the Nation's other operations during implementation of the budget contingency plan.

(c) *Grant Funds.* Grant funds are exempt from requirements of the budget contingency plan and any cost containment initiatives as such funding is not reliant on Tribal contributions. Grant funds shall be spent according to any non-negotiable grant requirements and guidelines of the granting agency to include purchases, travel, training, hiring grant required positions and any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

## **121.5. Budget Process**

121.5-1. *General.* The Nation shall develop, adopt, and manage an annual budget. All revenues and expenditures of the Nation shall be in accordance with the annual budget adopted by the Nation.

121.5-2. *Content of Budget.* The Nation's budget shall include, but is not limited to, the following information:

- (a) Estimated revenues to be received from all sources for the year which the budget covers;
- (b) The individual budgets of each fund unit;
- (c) A description of each line item within each fund unit's budget;
- (d) The estimated expenditures by each fund unit; and
- (e) Each fund unit's strategic plan showing alignment with the Nation's goals.

121.5-3. *Budget Adoption Procedure.* The Nation shall develop and adopt its budget according to the following procedures:

(a) *Budget Schedule and Guidelines.* The Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process. The Treasurer shall submit the guidelines for the development of the budget to the Oneida Business Committee for review and approval.

(b) *Budget Adoption.* The final draft budget shall be approved by the Oneida Business Committee through resolution prior to presentation to the General Tribal Council. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted.

- (1) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management and Homeland Security law, which prevents presentation and adoption of the budget by the

General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

#### **121.6. Capital Improvements**

121.6-1. *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop and the General Tribal Council shall approve a capital improvement plan for government services and shall reassess the plan once every five (5) years. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

121.6-2. *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed in accordance with the capital improvement rules which the Community Development Planning Committee and the Development Division shall jointly create, provided that the rules shall include a provision that the Oneida Business Committee shall approve all capital improvement plans.

121.6-3. *Capital Improvement Plan Implementation.* Capital Improvement plans shall be implemented, contingent on available funding capacity, using the capital improvement rules.

#### **121.7. Appropriation of the Nation's Funds**

121.7-1. *Unexpended Capital Improvement Funds.* Unless the fund unit qualifies for an exception as provided in the capital improvement rules, unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the general fund to be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.

121.7-2. *Unexpended Capital Expenditure Funds.* The CFO shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.

#### **121.8. Budget Authority**

121.8-1. *Authority to Expend Funds.* The Treasurer's authority to expend appropriated funds is delegated to the CFO, who shall make such expenditures in accordance with the adopted budget. This authority is necessarily delegated to other managers, including executive managers, of the Nation who manage the budgets, pursuant to their job descriptions based on the procurement manual rules developed by the Purchasing Department.

121.8-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.8-3. In addition to the authority and responsibilities provided elsewhere in this law, the following positions and fund units shall have the authority and responsibilities as outlined below:

(a) *Oneida Business Committee.* Once the Nation's annual budget is adopted by the General Tribal Council, the authority of the Oneida Business Committee is limited to budget oversight except as otherwise provided in this law. However, these limitations do not prevent the Oneida Business Committee, with input from the CFO, from taking necessary action, on an emergency basis and within the scope of its authority, to protect and safeguard the resources and general welfare of the Nation and ensure compliance with applicable laws, regulations and requirements. The OBC shall ensure that the CFO performs the duties and responsibilities as assigned under this law.

(b) *Treasurer.* In addition to the Treasurer's Constitutional responsibilities, the Nation's Treasurer shall:

(1) Submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee and/or the General Tribal Council at:

(A) The annual General Tribal Council meeting;

(B) The semi-annual General Tribal Council meeting; and

(C) Other such times as may be directed by the Oneida Business Committee and/or the General Tribal Council.

(2) Present the proposed draft budget to the General Tribal Council at the annual budget meeting as required by section 121.5-9.

(c) *Chief Financial Officer.* Once the Nation's budget is properly adopted, the CFO shall ensure that it is properly implemented. The CFO shall:

(1) Provide managers with monthly revenue and expense reports in order for the managers to track their expenditures;

(2) Submit, to the Oneida Business Committee, a written report of any monthly variances that are either a difference of three percent (3%) or more from the adopted annual budget or \$50,000 or more in total; and

(3) Conduct financial condition meetings with the Nation's management on a quarterly basis.

(d) *Managers.* Managers of each business unit shall:

(1) Ensure that their business units operate, on a day-to-day basis, in compliance with the budget adopted pursuant this law;

(2) Report to the CFO explanations and corrective actions for any monthly variance that are either a difference of three percent (3%) or more from the adopted annual budget or \$50,000 or more in total; and

(3) Submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month.

## **121.9. Budget Transfers; Amendments**

121.9-1. *Budget Transfers.* After the budget is adopted, transfer of funds within the budget is not permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the approved budget as required to accurately reflect the amount of grant funding actually received.

121.9-2. *Budget Amendments.* After the budget is adopted, amendments of the budget are not permitted except as provided in section 121.8-3(a).

## **121.10. Reporting**

121.10-1. *Monthly Reporting.* The CFO shall provide copies of the monthly Treasurer's reports and quarterly operational reports from direct reports to the Oneida Business Committee in

accordance with Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee Meeting held for the acceptance of such reports.

121.10-2. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Audit Law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

### **121.11. Authorizations and Signatures**

121.11-1. *General.* The procurement manual rules developed by the Purchasing Department shall provide the sign-off process and authorities required to expend funds on behalf of the Nation.

121.11-2. *Fees and Charges.* Managers of programs and services requiring Tribal contribution that desire to charge fees for their services shall determine the full cost of providing the program and/or service and, only then, may charge fees to cover operational costs. The full cost of providing a program and/or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation. Fees and charges may cover the full cost of service and/or goods whenever such fee or charge would not present an undue financial burden to recipient. Programs and services charging fees may offer fee waivers, provided that the program/service has developed rules outlining the fee waiver eligibility and requirements.

### **121.12. Enforcement**

121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply with and enforce this law to the greatest extent possible.

121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws, policies and rules, including but not limited to, those related to employment with the Nation, conflicts of interest, ethics and removal from an elected position.

121.12-3. *Civil and/or Criminal Charges.* This law shall not be construed to preclude the Nation from pursuing civil and/or criminal charges under applicable law. Violations of applicable federal or state civil and/or criminal laws may be pursued in a court having jurisdiction over any such matter.

*End.*

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Adopted-BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extended – BC-11-10-21-B