



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

December 15, 2021

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public in accordance with Oneida Business Committee resolution BC-12-08-21-B, *Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19*.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. December 1, 2021 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Budget Management and Control Law Amendments (pg. 4)

IV. New Submissions

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
December 1, 2021
9:00 a.m.

Present: David P. Jordan, Daniel Guzman King, Marie Summers, Jennifer Webster, Kirby Metoxen (Microsoft Teams)

Others Present: Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Brooke Doxtator, Bonnie Pigman, Lawrence Barton, Rhiannon Metoxen (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Eric Boulanger (Microsoft Teams), Rae Skenandore (Microsoft Teams), Amy Spears (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the December 1, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Summers to adopt the agenda as is; seconded by Jennifer Webster. Motion carried unanimously.

II. Minutes to be Approved

1. November 17, 2021 LOC Meeting Minutes

Motion by Marie Summers to approve the November 17, 2021 LOC meeting minutes and forward to the Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

III. Current Business

1. Furlough Law Amendments

Motion by Jennifer Webster to approve the updated draft, legislative analysis, and the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by December 15, 2021; seconded by Marie Summers. Motion carried unanimously.

2. Oneida General Welfare Law

Motion by Jennifer Webster to approve the Oneida General Welfare law adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

IV. New Submissions

1. Oneida Nation Arts Board Bylaws Amendments

Motion by Jennifer Webster to add the Oneida Nation Arts Board bylaws amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.



V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Marie Summers to adjourn at 9:25 a.m.; seconded by Daniel Guzman King.
Motion carried unanimously.



Legislative Operating Committee
December 15, 2021

Budget Management and Control Law Amendments

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|--------------------------------------|--|
| Submission Date: 10/7/20 | Public Meeting: n/a |
| LOC Sponsor: Jennifer Webster | Emergency Enacted: 11/24/20, 5/12/21, 11/10/21 |

Summary: *On August 12, 2020, during an executive session discussion on the supervision of the Chief Financial Officer, the Oneida Business Committee adopted a motion to send the entire subject of supervision of the Chief Financial Officer to the LOC for further analysis to create permanent amendments in the Budget Management and Control law for Tiers III, IV, and V for future events. The Legislative Operating Committee added the Budget Management and Control law amendments to its Active Files List on October 7, 2020. On November 24, 2020, the Oneida Business Committee adopted emergency amendments to the Budget Management and Control law through resolution BC-11-24-20-E to address how the Nation would adopt the budget during the COVID-19 pandemic. The emergency amendments to the Law are set to expire on May 24, 2021. On May 12, 2021, the Oneida Business Committee adopted emergency amendments to the Budget Management and Control law through resolution BC-05-12-21-C to address the Nation's non-compliance with the budget development process and timelines. The emergency amendments to the Law were then extended by the Oneida Business Committee on November 10, 2021, through the adoption of resolution BC-11-10-21-B. The emergency amendments to the Law will now expire on May 12, 2022.*

10/7/20 LOC: Motion by Jennifer Webster to add the Budget Management and Control Law Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

10/21/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Clorissa N. Santiago, Kristen Hooker, Rae Skenandore, James Petitjean, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work session was to review the Budget Management and Control law line by line and begin discussing potential amendments. Attorney will update the draft based on suggestions during this work meeting, and will note all parking lot issues, and will schedule another work meeting with this team.

11/24/20: *E-Poll Conducted.* This e-poll was titled, "Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet." The requested action of this e-poll was to approve the Budget Management and Control law emergency amendments adoption packet and forward to the Oneida Business Committee. This e-poll was approved by Jennifer Webster, David P. Jordan, Marie Summers, and Kirby Metoxen. Daniel Guzman King did not provide a response during the e-poll time frame.

11/24/20 OBC: Motion by Lisa Liggins to amend the agenda to add two (2) items [1) item V.D. Adopt resolution entitled Emergency Amendments to the Budget Management and Control Law; and 2) item V.E. Adopt resolution entitled Approval of Final Draft Fiscal Year 2021 Budget and Budget Directives], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt resolution 11-24-20-E Emergency Amendments to the Budget Management and Control Law, seconded by David P. Jordan. Motion carried.

12/2/20 LOC: Motion by Kirby Metoxen to enter into the record the results of the November 24, 2020, e-poll titled, "Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet"; seconded by Jennifer Webster. Motion carried unanimously.

12/2/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide a brief update to the LOC on the status of holding a work meeting with the Treasurer, Budget Analyst, and Strategic Planner to collect information on how to efficiently and effectively incorporate community input into the budget process.

1/22/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss with Finance potential issues that need to be addressed in the proposed amendments to this law.

1/28/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide the LOC an update on the January 22 work meeting with Finance, and discuss a plan for moving this item forward.

2/9/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss potential amendments to the Budget Management and Control law and discuss a plan for moving this legislative item forward.

2/25/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a potential outline for a law that would include not only information on the budget, but broader financial policies of the Nation.

4/28/21 OBC: [*Considerations regarding the Budget Management and Control Law*] Motion by Kirby Metoxen to acknowledge we are out of compliance and going forward we get into compliance. Motion failed due to lack of support.

Motion by David P. Jordan to direct the LOC [Legislative Operating Committee] to have emergency amendments to the Budget Management and Control law to remove much of the budget process/deadlines and leave it simply at a budget should be adopted by September 30, 2021 and direct the LOC to continue working with Finance to get the Budget Management and Control law amended, seconded by Jennifer Webster. Motion carried.

4/29/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work

meeting held through Microsoft Teams. The purpose of this work meeting was to discuss how to address the 4/28 directive from the Oneida Business Committee to bring forward emergency amendments to the law.

5/5/21 LOC: Motion by Jennifer Webster to approve the Budget Management and Control law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Marie Summers abstained. Motion carried.

5/12/21 OBC: Motion by Lisa Liggins to adopt resolution 05-12-21-C Emergency Amendments to the Budget Management and Control Law, with two (2) changes [1) at line 73, insert "BE IT FURTHER RESOLVED, the deadlines provided in the Fiscal Year 2022 Budget Calendar, which is published on the Oneida Portal and was shared at the April 6, 2021, Budget Kick-off meeting, are suspended until further notice."; and 2) change last resolve to "BE IT FINALLY RESOLVED, the Treasurer shall present a resolution to a special Business Committee work session, scheduled no later than June 11, 2021, which provides the general framework for the Fiscal Year 2022 budget development process, which shall include, but is not limited to, information such as the budget calendar, opportunities for community input and discussion, line item guidance, and new position definition, guidance, and review process."], seconded by Jennifer Webster. Motion carried.

5/25/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to go through the draft and begin flushing out potential policies and topics to be included in the law.

6/16/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue going through the draft and begin flushing out potential policies and topics to be included in the law.

7/7/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue going through the draft and begin flushing out potential policies and topics to be included in the law.

10/12/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated proposed draft one final time before it is presented to the Legislative Operating Committee for their consideration.

10/14/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Law developed by the Treasurer and Finance.

10/15/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue reviewing and discussing the proposed draft of amendments to the Law developed by the Treasurer and Finance.

10/20/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the

updated draft and redline of the proposed amendments to the Law to prepare the draft to be formally approved on the next LOC meeting agenda.

11/3/21 LOC: Motion by Jennifer Webster to approve the Budget Management and Control law emergency amendments extensions packet and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Kirby Metoxen to approve the draft of proposed amendments to the Budget Management and Control law and direct that a legislative analysis be developed; seconded by Jennifer Webster. Motion carried unanimously.

11/3/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss section 121.6-4 of the Law in relation to resolution BC-10-08-08-A and determine next steps for moving forward.

11/4/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss with Finance the changes the LOC made to the proposed draft after it was submitted to them, and collect input from Finance.

11/9/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the input on the proposed draft that was collected from the Finance Department.

11/10/21 OBC: Motion by David P. Jordan to adopt resolution 11-10-21-B Extension of the Emergency Amendments to the Budget Management and Control Law, seconded by Kirby Metoxen. Motion carried.

12/9/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to briefly review the legislative analysis and the public comment period notice.

Next Steps:

- Approve the updated draft, legislative analysis, and public comment period notice, and forward the Budget Management and Control law amendments to a public comment period to be held open until February 2, 2022.

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
121.2. Adoption, Amendment, Repeal
121.3. Definitions
121.4. Authority and Responsibilities
121.5. Budget
121.6. Expenditures and Assets

121.7. Grants
121.8. Debts
121.9. Employment and Labor Allocations
121.10. Budget Contingency Planning
121.11. Reporting
121.12. Enforcement

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 the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

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 amended by resolution BC-__-__-__.

121.2-2. This law may be amended or repealed by the Oneida Business Committee 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) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

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

(1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful 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), but the total purchase price for all of the items is ten thousand dollars (\$10,000) or more.

(d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more.

(e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

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

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. The Debt Service Coverage Ratio is calculated by dividing the net operating income by the total debt service costs.

(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.

(h) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer.

(i) “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.

(j) "Finance Administration" means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

(k) "Fiscal year" means the one (1) year period each year from October 1st to September 30th.

(l) "Fixed Charge Coverage Ratio" means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.

(m) "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.

(n) "Line item" means the specific account within a fund unit's budget or category that expenditures are charged to.

(o) "Manager" means the person in charge of directing, controlling, and administering the activities of a fund unit.

(p) "Nation" means the Oneida Nation.

(q) "Secretary" means the Oneida Nation Secretary.

(r) "Treasurer" means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee.* The Oneida Business Committee shall:

- (a) oversee the development of the Nation's budget;
- (b) oversee the implementation of the Nation's budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer.* In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation's Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
 - (1) the annual General Tribal Council meeting;
 - (2) the semi-annual General Tribal Council meeting; and
 - (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and

(d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer.* The CFO shall:

(a) ensure the Nation's budget is properly implemented;
(b) provide managers with monthly revenue and expense reports;
(c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

(d) provide the Oneida Business Committee with information and reports as requested;

(e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and

(f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

121.4-4. *Managers.* Managers shall:

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

(b) report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

(c) 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; and

(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.

121.5. Budget

121.5-1. 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.

(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.

(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.

(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.

(c) The Nation's corporate entities shall not be included in the Nation's budget.

121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:

(a) Estimated revenues to be received from all sources;

(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) Summary of employment position counts including prior year, current year, and budgeted year.

121.5-3. *Fund Categories*. The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) *General Fund*. The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) *Permanent Executive Contingency Fund*. The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) *Grant Reserve Fund*. The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

121.5-4. *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, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution ~~by~~ (insert month) ~~of each year~~.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the ~~CFO~~ Oneida Business Committee.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

(b) *Annual Proposed Budgets*. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.

~~(1)~~ (1) Notification of Budget Increases. The Treasurer shall identify in the budget guidelines a percentage of an increase in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased by ~~(insert this percentage)~~ or more from the prior budget.

(c) *Final Draft Budget*. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) *Community Meetings*. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) *Budget Adoption.* 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. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution.* 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 by the General Tribal Council.

(2) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, ~~which~~that stays in effect for at least one (1) month and prevents ~~the~~ presentation ~~to~~ and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual.

121.6-2. *Procurement Manual.* The Purchasing Department shall develop a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation. The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

121.6-4. *Unbudgeted Expenditures.*

(a) Approval of Unbudgeted Expenditures. The Oneida Business Committee shall ~~present notification of~~ approve any unbudgeted expenditure prior to the expenditure being made by a fund unit.

(b) Notification of the Nation Unbudgeted Expenditures. The Oneida Business Committee shall set through resolution a threshold amount for ~~one million dollars (\$1,000,000) or more~~ unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(~~b~~c) Unbudgeted Supplemental Funding. In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* No fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall 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.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer 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 returned to the General Fund.

121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements.*

(a) *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.

(1) 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.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. 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.

(b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) *Capital Improvement Plan Implementation.* Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Grants

121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

121.7-2. *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.

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

(a) information on the progress of the utilization of the grant funds;

(b) the number of employees the grant funding supports fully or partially; and

(c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be ~~a-restricted~~an obligated fund, that is fully funded with separately identified cash resources.

(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.

(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated until such a time that a new position can be included and approved in the Nation's annual budget and labor allocations.

121.8. Debts

121.8-1. *General*. The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered.

121.8-2. *Approval Notice of the Acquisition of Debt*. Any debt underwritten by the Nation for one million dollars (\$1,000,000) or more shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment.

121.8-3. *Use of Debt*. Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default.

121.8-4. *Credit Ratios*. Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio*. The Debt Service Coverage Ratio shall not exceed a range of zero (0) to two (2) as defined by Generally Accepted Accounting Principles.

(b) *Fixed Charge Coverage Ratio*. The Fixed Charge Coverage Ratio shall be maintained at a range of one and twenty-five hundredths (1.25) or higher as defined by Generally Accepted Accounting Principles.

121.8-5. *Corporate Debt*. The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Employment and Labor Allocations

121.9-1. *Employment Cap*. The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap.

121.9-2. *Labor Allocations List*. The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business

Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

121.9-3. *Unbudgeted Positions.* Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception.* The Oneida Business Committee may authorize an unbudgeted position for a fund unit ~~if the fund unit is a revenue generating fund unit undergoing an economic development initiative, which may include, but is not limited to, any new business development, expansion, merger, acquisition, or renovation which results in a new profit revenue source for the Nation.~~

121.10. Budget Contingency Planning

121.10-1. *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.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution.

121.10-2. *Cost Saving Tools.* As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund 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 Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer, in consultation with the CFO, shall ~~set aside~~ (insert establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage) of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress 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.

121.11. Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

- (a) The Treasurer's monthly reports shall include revenue and expense summaries.

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

- (a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's 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.

121.12. 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.

- (a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies 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 or Criminal Charges*. This law shall not be construed to preclude the Nation from pursuing civil or criminal charges under applicable law. Violations of applicable federal or state civil or criminal laws, or any laws of the Nation, may be pursued in a court having jurisdiction over any such matter.

End.

Adopted – BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extension – BC-11-10-21-B

Amended – BC-__-__-__-__

ONEIDA NATION**PUBLIC COMMENT PERIOD NOTICE**

**Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
WEDNESDAY, February 2, 2022**



Find Public Meeting Materials at

[Oneida-nsn.gov/government/
register/public meetings](https://oneida-nsn.gov/government/register/public-meetings)

Send Public Comments to

LOC@oneidanation.org

BUDGET MANAGEMENT AND CONTROL LAW AMENDMENTS

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 other financial policies and procedures for the Nation.

The proposed amendments to the Budget Management and Control law will:

1. Expand the purpose and policy of this Law to address other financial policies and procedures for the Nation beyond just the budget process;
2. Eliminate the strategic planning provisions from this Law, instead providing simply that the Oneida Business Committee should develop and adopt a strategic plan, broad goals, or priorities for the Nation that the budget shall reflect;
3. Clarify the authority and responsibilities of those individuals who play a part in the Nation's budget process;
4. Simplify the budget process and procedure contained in the Law in an effort to improve the Nation's compliance with the Law and provide more flexibility to adjust the budget development and adoption procedure to meet the Nation's current circumstances; and
5. Include new provisions which address unbudgeted expenditures, obligated future expenditures, capital contributions, grants, debt, employment and labor allocations, and unbudgeted positions.

For more information on the proposed amendments to the Budget Management and Control law please review the public comment packet at [oneida-nsn.gov/government/register/public meetings](https://oneida-nsn.gov/government/register/public-meetings).

PUBLIC COMMENT PERIOD CLOSES WEDNESDAY, FEBRUARY 2, 2022

The Nation's COVID-19 Team issued a declaration on March 27, 2020, titled "*Suspension of Public Meetings under the Legislative Procedures Act.*" This declaration provides that the Legislative Procedures Act's requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency. Oneida Business Committee resolution BC-12-08-21-B, *Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19*, prohibits indoor public meetings from occurring when COVID-19 Case Activity rates are above low in Brown and Outagamie Counties, COVID-19 Percent Positive rates are above low in Brown and Outagamie Counties, and when COVID-19 Community Transmission Rates by ZIP Code Tabulation Area are above low in the designated ZIP Codes or the ZIP Code in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period. The Nation has not yet met these thresholds for holding an indoor public meeting. Although there will be no in person public meeting, the public comment period will still occur, and individuals can participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org.



BUDGET MANAGEMENT AND CONTROL LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

| <i>Analysis by the Legislative Reference Office</i> | |
|---|--|
| Intent of the Proposed Law | <ul style="list-style-type: none"> ▪ Revise the name of this law from Budget Management and Control Law to <i>Budget and Finances Law</i>; ▪ Expand the purpose and policy of this Law to address other financial policies and procedures for the Nation beyond just the budget process [1 O.C. 121.1-1, 121.1-2]; ▪ Eliminate the strategic planning provisions from this Law, instead providing simply that the Oneida Business Committee should develop and adopt a strategic plan, broad goals, or priorities for the Nation that the budget shall reflect [1 O.C. 121.4-1(c), 121.5-1(b)]; ▪ Clarify the authority and responsibilities of those individuals who play a part in the Nation's budget process [1 O.C. 121.4]; ▪ Simplify the budget process and procedure contained in the Law in an effort to improve the Nation's compliance with the Law and provide more flexibility to adjust the budget development and adoption procedure to meet the Nation's current circumstances [1 O.C. 121.5]; ▪ Include new provisions which address: <ul style="list-style-type: none"> ▪ unbudgeted expenditures [1 O.C. 121.6-4]; ▪ obligated future expenditures [1 O.C. 121.6-5]; ▪ capital contributions [1 O.C. 121.6-7]; ▪ grants [1 O.C. 121.7]; ▪ debt [1 O.C. 121.8]; ▪ employment and labor allocations [1 O.C. 121.9]; and ▪ unbudgeted positions. [1 O.C. 121.6-4]. |
| Purpose | <p>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 financial policies and procedures for the Nation which:</p> <ul style="list-style-type: none"> ▪ institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; ▪ provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; ▪ identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; ▪ establish a framework for effective financial risk management; and ▪ encourage participation by the Nation's membership. [1 O.C. 121.1-1]. |
| Affected Entities | Oneida Business Committee, Finance Administration, Executive Managers, Oneida Fund Units. |

| | |
|---------------------|---|
| Related Legislation | Legislative Procedures Act, Internal Audit law, Emergency Management law, Oneida Personnel Policies and Procedures, Administrative Rulemaking law, Furlough Policy, Layoff Policy, Conflict of Interest law, Code of Ethics law, Removal law. |
| Public Meeting | A public comment period has not yet been held. |
| Fiscal Impact | A fiscal impact statement has not yet been requested. |

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. *Background.*** The Budget Management and Control law (“the Law”) was adopted by the Oneida Business Committee through resolution BC-02-08-17-C 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. [1 O.C. 121.1-1]. On August 12, 2020, during an executive session discussion on the supervision of the Chief Financial Officer, the Oneida Business Committee adopted a motion to send the entire subject of supervision of the Chief Financial Officer to the LOC for further analysis to create permanent amendments in the Budget Management and Control law for Tiers III, IV, and V for future events. The Legislative Operating Committee added the Law to its Active Files List on October 7, 2020.
- B. *Emergency Amendments Adopted through Resolution BC-11-24-20-E.*** In November 2020, the Oneida Business Committee sought emergency amendments to the Law to address the adoption of the Nation’s budget during the COVID-19 Public Health State of Emergency. Due to the COVID-19 pandemic, holding a General Tribal Council meeting to adopt the budget would place members in significant jeopardy of contact with the virus and cause the virus to spread throughout the community, which would unduly jeopardize the health and safety of elders, children and adults. On November 24, 2020, the Oneida Business Committee adopted an emergency amendment to the Law through the adoption of resolution BC-11-24-20-E which included a new provision that provided that in the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, which prevents presentation and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation’s budget. These emergency amendments to the Law were set to expire on May 24, 2021.
- C. *Emergency Amendments Adopted through Resolution BC-05-12-21-C.*** At the April 28, 2021, Oneida Business Committee meeting the Nation’s Secretary provided a memorandum which expressed concerns regarding the Nation’s lack of compliance with the Law and requested that the Oneida Business Committee make one of the following considerations: an emergency repeal of the Law due to the fact that the processes and procedures, specifically the deadlines for the various steps of the budget process contained in the law are not currently being followed; or emergency amendments to the Law to remove much of the budget process and/or deadlines and revise the Law so it simply states a budget should be adopted by September 30th. The Oneida Business Committee then adopted a motion directing the Legislative Operating Committee to develop emergency amendments to the Law to address this issue. The Oneida Business Committee then adopted emergency amendments to the Law on May 12, 2021, through resolution BC-05-12-21-C which removed details of the budget process from the Law and instead directed the Treasurer to develop the necessary guidelines and procedures, including specific deadlines, for the Nation’s budget development process, and then submit those guidelines for the development of the budget to the Oneida Business Committee for review and approval. These emergency amendments to the Law were set to expire on November 12, 2021.

- D. *Emergency Amendments Extended through Resolution BC-11-10-21-B.*** On November 10, 2021, the Oneida Business Committee extended the emergency amendments to the Law adopted through resolution BC-05-12-21-C for an additional six (6) month period. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month time period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the Law was requested to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the Law. The emergency amendments to the Law will now expire on May 12, 2022.
- E.** The Legislative Operating Committee is now seeking the permanent adoption of comprehensive amendments to the Law.

SECTION 3. CONSULTATION AND OUTREACH

- A.** The following positions within the Nation participated in the development of this Law and legislative analysis:
- Treasurer;
 - Chief Financial Officer;
 - Assistance Chief Financial Officer;
 - Budget Analyst; and
 - Strategic Planner.
- B.** The following laws of the Nation were reviewed in the drafting of this analysis:
- Legislative Procedures Act;
 - Internal Audit law;
 - Emergency Management law;
 - Oneida Personnel Policies and Procedures;
 - Administrative Rulemaking law;
 - Furlough Policy;
 - Layoff Policy;
 - Conflict of Interest law;
 - Code of Ethics law; and
 - Removal law.

SECTION 4. PROCESS

- A.** This Law has followed the process set forth in the Legislative Procedures Act (LPA).
- On October 7, 2020, the Legislative Operating Committee added this Law to its Active Files List.
 - On November 24, 2020, the Oneida Business Committee adopted an emergency amendment to the Law through the adoption of resolution BC-11-24-20-E to address the adoption of the Nation's budget during the COVID-19 Public Health State of Emergency.
 - On May 12, 2021, the Oneida Business Committee adopted additional emergency amendments through resolution BC-05-12-21-C which removed details of the budget process from the Law and instead directed the Treasurer to develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, and then submit those guidelines for the development of the budget to the Oneida Business Committee for review and approval.

- On November 3, 2021, the Legislative Operating Committee approved the draft of proposed amendments to the Law.
- Additionally, on November 3, 2021, the Legislative Operating Committee approved the emergency amendments extensions packet and forwarded these items to the Oneida Business Committee for consideration.
- On November 10, 2021, the Oneida Business Committee extended the emergency amendments to the Law for an additional six (6) month period through the adoption of resolution BC-11-10-21-B.
- On December 15, 2021, the Legislative Operating Committee will consider the approval of an updated draft of amendments to the Law and this legislative analysis. The Legislative Operating Committee will also consider scheduling a public comment period to be held for the proposed amendments to this Law.

B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of this Law:

- October 21, 2020: LOC work meeting held with the Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
- December 2, 2020: LOC work meeting.
- January 22, 2021: Work meeting with Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
- January 28, 2021: LOC work meeting.
- February 9, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
- February 25, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
- April 29, 2021: LOC work meeting.
- May 25, 2021: Work meeting with Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.
- June 16, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.
- July 7, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.
- October 12, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.
- October 14, 2021: LOC work meeting.
- October 15, 2021: LOC work meeting.
- October 20, 2021: LOC work meeting.
- November 3, 2021: LOC work meeting.
- November 4, 2021: Work Meeting with the Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.
- November 9, 2021: LOC work meeting.

C. *COVID-19 Pandemic's Effect on the Legislative Process.* The world is currently facing a pandemic of COVID-19. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses. A public meeting for the proposed amendments to the Law will not be held due to the

COVID-19 pandemic, but a public comment period for the submission of written comments will be held open.

▪ *Declaration of a Public Health State of Emergency.*

▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.

▪ The Public Health State of Emergency has since been extended until January 23, 2021, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, BC-09-22-21-A, and BC-11-24-21-F.

▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*

▪ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

▪ *Oneida Business Committee Resolution BC-12-8-21-B, Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19.*

▪ On December 8, 2021, the Oneida Business Committee adopted resolution BC-12-08-21-B, *Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19*, which superseded Oneida Business Committee resolution BC-08-13-21-A, *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-19*, and provides updated guidelines on holding meetings both indoors and outdoors.

▪ This resolution provides that when the following levels are met, indoor meetings of the Nation are feasible, provided that all organizers and participants should consider additional health safety measures when attending such as wearing a face mask, washing hands frequently, and social distancing:

▪ When COVID-19 Case Activity rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.

▪ When COVID-19 Percent Positive rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.

▪ When COVID-19 Community Transmission Rates by ZIP Code Tabulation Area are at or below low in designated ZIP Codes or the ZIP Code in which the activity

is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.

▪ *Conclusion.*

- Although a public meeting will not be held on the proposed amendments to the Law, a public comment period will still be held open in accordance with resolution BC-12-08-21-B and the Legislative Procedures Act as modified by the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

SECTION 5. CONTENTS OF THE LEGISLATION

A. *Purpose and Policy.* Both the purpose and policy section of this law has been extended through the proposed amendments. The purpose of this Law has always been to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, but now the Law goes on to provide that the purpose is also to establish financial policies and procedures for the Nation which: institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; establish a framework for effective financial risk management; and encourage participation by the Nation’s membership. [1 O.C. 121.1-1]. The policy of the Nation has been amended so that it is clear that the Nation relies on balanced-based budgeting strategies, not value-based budgeting strategies as previously included in the Law, which identify the proper authorities and ensure compliance and enforcement. [1 O.C. 121.1-2]. The policy has also been expanded to include that the Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements. [1 O.C. 121.1-2].

- ***Effect.*** The proposed amendments to the purpose and policy provisions of the Law provide greater insight on the various general financial policies and procedures of the Nation that this Law governs in addition to the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval.

B. *Removal of the Strategic Planning Provisions.* The provisions of the Law regarding strategic planning, previously found in section 121.4, has been removed from the Law. Previously, the Law included detailed provisions on the Oneida Business Committee’s development of the triennial strategic plan, as well as the fund unit’s contribution to the strategic plan. Now, the Law simply references that it is a responsibility of the Oneida Business Committee to develop priorities, a strategic plan, or broad goals to assist in guiding the budget [1 O.C. 121.4-1(c)], and to review the draft budget developed by the Treasurer each year to ensure that it is consistent with the Nation’s strategic plan, broad goals, and budget strategy. [1 O.C. 121.5-4(b)]. The budget is required to align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation. [1 O.C. 121.5-1(b)].

- **Effect.** The provisions of the Law regarding the strategic planning process were removed to allow greater flexibility in how the Oneida Business Committee and the corresponding fund units develop a strategic plan. In August 2020, the Oneida Business Committee hired a Strategic Planner whose role and responsibilities include assisting the Oneida Business Committee with their strategic planning responsibilities. Removing the details of the strategic planning process from this Law will allow the Strategic Planner flexibility in changing the process for how a strategic plan is developed until the most effective and efficient process is found.

C. **Authority and Responsibilities.** Section 121.4 has been reorganized as the authority and responsibilities section of the Law and contains provisions that were previously found in the Law as well as new provisions. This section of the Law provides the various authority and responsibilities of different entities including the Oneida Business Committee, the Treasurer, the Chief Financial Officer (CFO), and the managers. The authorities and responsibilities of the Oneida Business Committee has been expanded. Previously the Law provided that the Oneida Business Committee was responsible for budget oversight, necessary emergency action, and supervision of the CFO. Now the Law provides that the Oneida Business Committee shall oversee the development and implementation of the Nation's budget; develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council. [1 O.C. 121.4-1]. In regard to the authority and responsibilities of the Treasurer, the Law has been expanded to include accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian; and deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds in addition to the responsibilities previously found in the Law. [1 O.C. 121.4-2]. In regard to the authority and responsibilities of the CFO, the Law has been expanded to include the following responsibilities in addition to the responsibilities previously found in the Law: ensure the Nation's budget is properly implemented; assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either: a difference of three percent (3%) or more from the adopted annual budget or fifty thousand dollars (\$50,000) or more in total; provide the Oneida Business Committee with information and reports as requested; present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer. [1 O.C. 121.4-3]. In regard to the authority and responsibilities of the managers, the Law has been expanded to include the following responsibilities in addition to the responsibilities previously found in the Law submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee; and that the managers report to their relevant Executive Manager in addition to the CFO any explanations and corrective action for monthly variances. [1 O.C. 121.4-3].

- **Effect.** The expansion of the authorities and responsibilities section of the Law ensures that the authorities and responsibilities of the various entities and individuals who play a role in the execution of this Law is clear and transparent to all parties involved. The increased transparency in the authorities and responsibilities in the proposed amendments also hopes to increase accountability and compliance with the Law.

255 **D. *General Information on the Budget.*** The Law provides general information on the Nation's budget.
256 The Nation is required to develop, adopt, and manage an annual budget, of which, all revenues and
257 expenditures of the Nation shall be in accordance with. [1 O.C. 121.5-1]. The Nation's budget is
258 required to be a balanced budget, meaning that it does not propose to spend more funds than are
259 reasonably expected to become available to the Nation during that fiscal year. [1 O.C. 121.5-1(a)]. The
260 Law expressly prohibits underwriting debt resources or the utilization of existing debt instruments to
261 balance the Nation's annual budget. [1 O.C. 121.5-1(a)(1)]. Information on the Nation's corporate
262 entities is not included in the Nation's budget. [1 O.C. 121.5-1(c)]. The provisions regarding the content
263 of the budget remain as previously provided in the Law, except that a new requirement for the content
264 of the budget was included. Now the Law requires that a summary of employment position counts,
265 including prior year, current year, and budgeted year be included in the Nation's budget. [1 O.C. 121.5-
266 2(e)]. A new provision was added to the Law to address the fund categories of the Nation's budget.
267 The Nation's budget is now required to include the General Fund – which is the Nation's main operating
268 fund which is used to account for all financial resources not accounted for in other funds; the Permanent
269 Executive Contingency Fund – which is used by the Nation to prevent default on debt and to sustain
270 operations during times of extreme financial distress; and the Grant Reserve Fund – which is used by
271 the Nation to pre-fund the expenditures of grants upon receipt. [1 O.C. 121.5-3].

- 272 ■ ***Effect.*** The proposed amendments to the Law provide greater clarification on general principles
273 regarding the Nation's budget. The requirement that the Nation's budget be a balanced budget, that
274 was not balanced through the use of debt instruments, sets the overall tone and provides guidance
275 for how the budget is then developed.

276 **E. *Budget Adoption Procedure.*** The Law sets forth the procedure to be followed when developing the
277 Nation's budget. Previously, the Law was very detailed and contained a great amount of process and
278 procedure in regard to the development of the budget. Previously the budget development and adoption
279 procedure in the Law was as follows: the Treasurer's office was required to schedule at least one (1)
280 community input budget meeting prior to December 1st of each year where community members are
281 afforded an opportunity to provide input as to what should be included in the upcoming fiscal year
282 budget. The Treasurer then had to place a community budget input meeting packet on the Oneida
283 Business Committee agenda no later than the last Oneida Business Committee meeting in January. The
284 Oneida Business Committee was then required to review the community budget input meeting packet
285 and hold work meetings to create a priority list of services of the Nation, which had to be approved by
286 resolution no later than the last meeting in February. Then the Chief Financial Officer was required to
287 develop the necessary guidelines, including specific deadlines, to be followed by the managers that
288 have budget responsibility in preparing and submitting proposed budgets, and submit those guidelines,
289 as approved by the Treasurer, to the Oneida Business Committee. The Oneida Business Committee was
290 then responsible for revising the guidelines as necessary, and approving those guidelines within thirty
291 (30) calendar days of receiving the guidelines from the Chief Financial Officer. The Chief Financial
292 Officer was then responsible for receiving, reviewing, and compiling the proposed budgets into the
293 Nation's draft budget, and presenting that draft budget to the Oneida Business Committee no later than
294 the last Oneida Business Committee meeting in May. In the month of May, the CFO and the Oneida
295 Business Committee would meet to review the draft budget and provide any recommendations for
296 modifications, and then meet with the managers of each fund unit for which the Oneida Business
297 Committee is considering altering the fund unit's proposed budget. The Oneida Business Committee
298 was required to complete all meetings with fund unit managers by the end of June each year. The

Oneida Business Committee would then work with fund unit managers and the CFO to compile a final draft budget to be presented to the General Tribal Council, which had to be approved, by resolution of the Oneida Business Committee, to be presented to the General Tribal Council by the end of July each year. Once the Oneida Business Committee has approved the final draft budget, the Treasurer was then required to hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council. The Oneida Business Committee was required to 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 did not adopt a budget by September 30th, the Oneida Business Committee was permitted to adopt a continuing budget resolution(s) until such time as a budget is adopted. The proposed amendments to the Law take a much more simplified approach. The proposed amendments to the Law provide that the Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets, and that the Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution. [1 O.C. 121.5-4(a)]. The deadline for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval shall be set through the adoption of a resolution. [1 O.C. 121.5-4(a)(3)]. The Treasurer's guidelines are required to include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget. [1 O.C. 121.5-4(a)(1)]. Each fund unit is then responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. [1 O.C. 121.5-4(a)(2)]. The provisions of the Law regarding the review and compilation of all annual proposed budgets into the final draft budget to be presented to the General Tribal Council, and subsequent community meetings regarding the budget, are substantially similar to the provisions of the Law that were previously excluded without excess process and deadline dates. [1 O.C. 121.5-4(b)-(e)]. The proposed amendments to the Law also includes a new emergency budget adoption provision which provides that in the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget. [1 O.C. 121.5-4(e)(2)]. The proposed amendments then address amendments to the Nation's budget and provides that after the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit, and the Oneida Business Committee is responsible for adopting an amendment to the budget through resolution of the Nation, but notification of the budget amendment is required to be made at the next available General Tribal Council meeting. [1 O.C. 121.5-5].

▪ **Effect.** The proposed amendments to the Law greatly simplify and streamline the budget development and adoption procedure. Since the original adoption of this Law in 2017, the Nation has struggled to comply with all the provisions and deadlines contained in this Law. Although the proposed amendments to the Law keep the same general framework, it provides more flexibility to adjust the budget development and adoption procedure to meet the Nation's current circumstances so that the most effective and efficient process can be utilized.

F. **Expenditures and Assets.** Section 121.6 of the Law provides information on expenditures and assets and addresses the following topics: authority to expend funds, the Procurement Manual, fees and charges, unbudgeted expenditures, obligated future expenditures, unexpended funds, capital contributions, and capital improvements. Previously, the Law provided that the Treasurer's authority

to expend appropriated funds is delegated to the CFO, who shall make such expenditures in accordance with the adopted budget. The Law then previously provided that 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. Now the Law has been revised to provide that it is the Oneida Business Committee that has the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department, and that the authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual. [1 O.C. 121.6-1]. Instead of requiring the Procurement Manual to be adopted as rules in accordance with the Administrative Rulemaking law as previously required, the proposed amendments to the Law will now only require that the Procurement Manual be approved by the Oneida Business Committee through the adoption of a resolution. [1 O.C. 121.6-2]. The provision on fees and charges remains substantively the same as previously included in the Law. [1 O.C. 121.6-3]. The provision regarding unbudgeted expenditures is a new addition to the Law and provides guidance on the approval of unbudgeted expenditures, when notification of unbudgeted expenditures is required to go to the General Tribal Council, and the requirement for spending plans for unbudgeted supplemental funding that is received by the Nation. [1 O.C. 121.6-4]. The provision regarding obligated future expenditures is a new addition to the Law and prohibits any fund unit from obligating the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation. [1 O.C. 121.6-5]. The provisions regarding unexpended capital improvement funds and unexpended capital expenditure funds remain the same as previously found in the Law, except that clarification was added that unexpended capital expenditure funds shall be returned to the General Fund. [1 O.C. 121.6-6]. The provision regarding capital contributions is a new addition to the Law, and requires that any capital contributions made by the Nation be identified in the annual budget, and any reassignment of a loan provided by the Nation into a capital contribution be noticed to the General Tribal Council. [1 O.C. 121.6-7]. The Law then prohibits any assets of the Nation from being divested or borrowed against to balance the annual budget. [1 O.C. 121.6-8]. The provisions of the Law regarding capital improvement plans for both government services and enterprises remains as found previously in the Law. [1 O.C. 121.6-9].

- **Effect.** The proposed amendments to the Law expend the information that is provided in the Law regarding expenditures and assets of the Nation. The Procurement Manual developed by the Purchasing Department was changed from a rule that had to be adopted in accordance with the Administrative Rulemaking law to a manual that had to be approved by the Oneida Business Committee through the adoption of a resolution in an effort to provide greater ease and flexibility in making revisions to the Procurement Manual while still providing some oversight. New provisions were included in the Law regarding unbudgeted expenditures, obligated future expenditures, and capital contributions to provide greater insight on how these issues should be handled by the Nation since the Law was previously silent on these matters.. It should be noted that the Law provides that the Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting. [1 O.C. 121.6-4(b)]. Notification of unbudgeted expenditures is currently address by Oneida Business Committee

387 resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.
388 Resolution BC-10-08-08-A requires that expenditures for items and specific projects which were
389 not identified in the approved budget and total two hundred and fifty thousand dollars (\$250,000)
390 or more, shall be formally noticed to the General Tribal Council at the next available General Tribal
391 Council regular or special meeting. This resolution would control notification of unbudgeted
392 expenditure in compliance with section 121.6-4 of this Law until such a time that the resolution is
393 amended, rescinded, or superseded to provide a different threshold for unbudgeted expenditures
394 that requires notification to the General Tribal Council.

395 **G. Grants.** A new section regarding grants was added to the Law. Previously, the Law referenced grants
396 in regard to budget contingency planning, how grant funding may be utilized, and the exhaustion of
397 non-tribal funds. The Law previously provided that grant funds are exempt from requirements of the
398 budget contingency plan and any cost containment initiatives as such funding is not reliant on Tribal
399 contributions. Now the Law addresses expending grant funds, exhaustion of non-tribal funds, grant
400 reporting, a Grant Reserve Fund Account, and grant funded positions. The Law currently reflects the
401 same guidance on expending grant funds as was previously included in the Law, except now the Law
402 clarifies that grant funds may also be utilized for incentives and retention efforts. [1 O.C. 121.7-1(a)].
403 The Law then clarifies that Grant funds may be utilized for an expenditure even when other policies of
404 the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are
405 utilized for the expenditure and all requirements or obligations of the grant are met, provided that, grant
406 funds may be subject to the requirements of the budget contingency plan and any cost containment
407 initiatives adopted by the Oneida Business Committee. [1 O.C. 121.7-1(b)]. The provision on the
408 exhaustion of non-tribal funds remains the same as previously included in the Law. The provisions on
409 grant reporting are new additions to the Law. At the time of submission of proposed annual budgets,
410 any fund unit which receives grant funding is required to submit a status report of the grant funding
411 received to the Oneida Business Committee. [1 O.C. 121.7-3]. The Law now creates a Grant Reserve
412 Fund account for the Nation, which is an obligated fund, to be used to pre-fund the expenditures of
413 grants upon receipt, that is fully funded with separately identified cash resources. [1 O.C. 121.7-4]. The
414 Law then provides guidance on grant funded positions, providing that if the grant funding for a fully
415 grant funded position is eliminated, then the position shall be eliminated until such a time that a new
416 position can be included and approved in the Nation's annual budget and labor allocations. [1 O.C.
417 121.7-5].

- 418 ■ **Effect.** The purpose of the new provisions regarding grants that have been added to the Law is to
419 add clarification to ensure that grants are utilized effectively and efficiently within Nation. The
420 expanded provisions of the Law regarding the utilization of grants will provide more flexibility in
421 how grant funds are spent. The provisions of the Law regarding grant reporting will ensure that
422 pertinent information on grants is efficiently tracked and shared with the Oneida Business
423 Committee. The creation of the Grant Reserve Fund account will ensure that the Nation is prepared
424 and ready to pre-fund the expenditure of grants if needed.

425 **H. Debts.** A new section regarding debt was added to the Law. Previously, the Law only referenced debt
426 in regard to allowable payments to be made from the Permanent Executive Contingency Fund account
427 under budget contingency planning guidelines. This new section of the Law addresses general
428 provisions on debt, notice of the acquisition of debt, use of debt, credit ratios, and corporate debt. The
429 Law provides that any acquisition of debt by the Nation shall be processed in accordance with sound
430 fiscal diligence, and that the Nation will comply with all relevant federal and state banking laws, rules,

and policies applicable to the credit agreement. [1 O.C. 121.8-1]. Any debt instrument utilized by the Nation is prohibited from exceeding the life of what is being encumbered. [1 O.C. 121.8-1(a)]. The Law now provides guidance on when the acquisition of debt is required to be noticed to the General Tribal Council. Any debt underwritten by the Nation for one million dollars (\$1,000,000) or more shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment. [1 O.C. 121.8-2]. Credit can then be used for project capital, general use, financing of equity, and all unspecified uses. [1 O.C. 121.8-3]. The Law then provides guidance on maintaining fiscally responsible prudent credit ratios – such as the Debt Service Coverage Ratio and the Fixed Charge Coverage Ratio – in accordance with Generally Accepted Accounting Principles. [1 O.C. 121.8-4]. The section on debt then prohibits the Nation from being obligated to any debt obligations of its corporate entities. [1 O.C. 121.8-5].

- **Effect.** It is essential for effective budget management and financial control that the Nation have guidelines for the acquisition and utilization of debt. The provisions included in the Law will assist in ensuring that the Nation is fiscally responsible and exercising sound diligence if utilizing debt in the future.

I. **Employment and Labor Allocations.** A new section regarding employment and labor was added to the Law. Previously the Law did not address employment levels within the Nation or labor allocations. This new section of the Law addresses an employment cap for the Nation, a labor allocations list, and unbudgeted positions. The Law will now require that the Oneida Business Committee adopt an employment cap for the Nation which sets the maximum number of full-time equivalent employees to be employed by the Nation. [1 O.C. 121.9-1]. The Law also requires that the Oneida Business Committee adopt a labor allocations list which identifies the number of full-time equivalent employees each employment area of the Nation is allocated. [1 O.C. 121.9-2]. The Law then prohibits any position which has not been specifically budgeted for and included in the labor allocation list, while specifying that budgeted labor dollars and approved positions shall not be transferrable in any form. [1 O.C. 121.9-3]. Although unbudgeted positions are expressly prohibited, an exception was included in the Law which allows the Oneida Business Committee to authorize unbudgeted positions for a fund unit. [1 O.C. 121.9-3(a)].

- **Effect.** This is the first time that an employment cap or a labor allocations list is addressed in the Law. These provisions were included in the Law in an effort to ensure that the Nation maintains a manageable employment level. Costs related to maintaining the thousands of individuals employed by the Nation is one of the Nation's highest costs it must budget for, so it is essential that we are able to ensure that the Nation maintains control over sustainable employee levels. The requirement to maintain a labor allocation list will also ensure that the labor distribution throughout the various employment areas of the Nation is regularly reviewed so that it can be ensured that labor is allocated throughout the employment areas based on the needs of the Nation so that the best service can be provided by all employment areas. [1 O.C. 121.9-2]. Although this will be the first time the Law addresses an employment cap, this issue has previously been addressed through resolution by the Oneida Business Committee. One such example of the Oneida Business Committee adopting an employment cap for the Nation occurred within the adoption of the Fiscal Year 2021 budget as adopted through resolution BC-11-24-20-F, *Approval of Final Draft Fiscal Year 2021 Budget and Budget Directives*, which set an employment cap of two thousand and two hundred (2,200) employees.

474 **J. *Budget Contingency Planning.*** The provisions of the Law regarding budget contingency planning
475 were moved from what used to be the strategic planning section of the Law to its own section. The
476 amendments to the budget contingency planning section of the Law clarifies that emergency
477 proclamations qualify as extreme financial distress, while tribal shutdowns – which occurs when the
478 General Tribal Council has not approved a budget for the Nation prior to the beginning of a new fiscal
479 year – does not qualify as extreme financial distress. [1 O.C. 121.10-1(a)]. The Law requires that the
480 Oneida Business Committee maintain a Permanent Executive Contingency Fund account. Previously,
481 the Law provided that the Treasurer, in consultation with the CFO, shall establish, and the Oneida
482 Business Committee shall approve, the level of business continuity funds required in the Permanent
483 Executive Contingency account, that the Treasurer shall set aside business continuity funds in the
484 Permanent Executive Contingency account until the established level has been achieved. Now the Law
485 was clarified that the Permanent Executive Contingency Fund account is a restricted fund, and that
486 Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of
487 operating expenses to ensure continuity of business for the Nation. [1 O.C. 121.10-4(a)]. The
488 amendments also clarify that the Oneida Business Committee shall approve through the adoption of a
489 resolution the percentage of the annual budget that is required to be set aside in the Permanent Executive
490 Contingency Fund account until the established level has been achieved. [1 O.C. 121.10-4(b)].

- 491 ■ ***Effect.*** In regard to the clarification on what constitutes extreme financial distress, Tribal
492 shutdowns was removed from the Law as an example of extreme financial distress because it was
493 not accurate that the General Tribal Council not approving a budget for the Nation prior to the
494 beginning of a new fiscal year that means the Nation has shut down and is in extreme financial
495 distress. The Law already addresses if the General Tribal Council does not adopt a budget by
496 September 30th of each year and provides that the Oneida Business Committee may then adopt a
497 continuing budget resolution(s) until such time as a budget is adopted. [1 O.C. 121.5-4(e)(1)].
498 Therefore, budget contingency planning for if the General Tribal Council does not adopt a budget
499 by September 30th of each year is not necessary. Additionally, emergency proclamations were
500 added as an example of extreme financial distress based on the Nation's experience with the
501 COVID-19 pandemic and its resulting emergency proclamations. In regard to the amendments on
502 the Permanent Executive Contingency Fund Account, clarification was added so that the Law is
503 specific as to what level of funds is required to be in the Permanent Executive Contingency Fund
504 account, and that the Oneida Business Committee will approve through resolution the percentage
505 of the annual budget that is required to be set aside in the Permanent Executive Contingency Fund
506 account each year. These clarifications will ensure that the Treasurer and the Oneida Business
507 Committee can properly plan to fund the Permanent Executive Contingency Fund account so that
508 the Nation is prepared for times of extreme financial distress.

509 **K. *Reporting.*** Clarification was added to this section of the Law which provides that the Treasurer's
510 monthly reports to the Oneida Business Committee should include revenue and expense summaries. [1
511 O.C. 121.11-1(a)]. Additionally, a new provision was added to this section of the Law which addresses
512 annual and semi-annual reporting to the General Tribal Council. The Law now states that the Treasurer
513 shall report on all receipts and expenditures and the amount and nature of all funds in their possession
514 and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times
515 as requested by the General Tribal Council or the Oneida Business Committee. [1 O.C. 121.11-2]. The
516 Treasurer's reports are also required to include an independently audited annual financial statement that

provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation. [1 O.C. 121.11-2(a)].

- **Effect.** The revisions to the Law in this section provide more clarify on what information is expected to be included in the Treasurer's reports to the Oneida Business Committee and the General Tribal Council. Although a new addition to this Law, the requirements of section 121.11-2(a) are not new requirements for the Treasurer's reports, and this information was previously contained in resolution GTC-11-15-08-C, *Treasurer's Report to include all Receipts and Expenditures and the Amount and Nature of all Funds in the Treasurer's Possession and Custody*.

L. Enforcement. A provision was added to the enforcement section of the Law that provides that the Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. [1 O.C. 121.12-1(a)]. Then a list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council. [1 O.C. 121.12-1(a)].

- **Effect.** This provision was added to the Law in an effort to encourage compliance with the Law by the fund units, and ensure there is accountability for those fund units that do not comply with the Law. Requiring this information to be shared in the annual report to the General Tribal Council also ensures transparency with the information shared with the Oneida Business Committee and the General Tribal Council.

M. Minor Drafting Changes. Additional drafting and formatting changes have been made throughout the Law for clarity.

SECTION 6. EXISTING LEGISLATION

A. Related Legislation. The following laws of the Nation are related to this Law:

- **Administrative Rulemaking law.** The Administrative Rulemaking law provides an efficient, effective and democratic process for enacting and revising administrative rules. [1 O.C. 106.1-2].
 - Previously, this Law required the Procurement Manual to be adopted as rules in accordance with the Administrative Rulemaking law. The proposed amendments to the Law remove this provision and now only require that the Procurement Manual be approved by the Oneida Business Committee through the adoption of a resolution. [1 O.C. 121.6-2].
 - This Law no longer delegates authority for the promulgation of rules in accordance with the Administrative Rulemaking law.
- **Internal Audit Law.** The Internal Audit law creates a process by which internal audits are conducted upon the Nation's entities and to delegate responsibilities for the purposes of conducting such audits. [1 O.C. 108.1-1].
 - The Law provides that the Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's 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. [1 O.C. 121.11-3].

- 559 ▪ Any internal audits conducted by the Internal Audit Department shall be made in
560 accordance with the audit process provided in the Internal Audit law. [1 O.C. 108.6].
- 561 ▪ *Emergency Management Law.* The purpose of the Emergency Management law is to provide
562 for the development and execution of plans for the protection of residents, property, and the
563 environment in an emergency or disaster; provide for the direction of emergency management,
564 response, and recovery on the Reservation, as well as coordinating with other agencies, victims,
565 businesses, and organizations; establish the use of the National Incident Management System
566 (NIMS); and designate authority and responsibilities for public health preparedness. [3 O.C.
567 302.1-1].
 - 568 ▪ This Law provides that in the event that the Nation proclaims an emergency, in
569 accordance with the Emergency Management law, that stays in effect for at least one
570 (1) month and prevents the presentation to and adoption of the budget by the General
571 Tribal Council, the Oneida Business Committee shall adopt the Nation's budget. [1
572 O.C. 121.5-4(e)(2)].
 - 573 ▪ Under the Emergency Management law, the Oneida Business Committee is delegated
574 the responsibility to proclaim or ratify the existence of an emergency. [3 O.C. 302.8-
575 1]. An emergency means a situation that poses an immediate risk to health, life, safety,
576 property, or environment which requires urgent intervention to prevent further illness,
577 injury, death, or other worsening of the situation. [3 O.C. 302.3-1(f)]. No proclamation
578 of an emergency by the Oneida Business Committee may last for longer than sixty (60)
579 days, unless renewed by the Oneida Business Committee. [3 O.C. 302.8-2].
- 580 ▪ *Oneida Personnel Policies and Procedures.* The Oneida Personnel Policies and Procedures is
581 the Nation's law which governs employment. The Oneida Personnel Policies and Procedures
582 provides the process for handling complaints, disciplinary actions, and grievances. [Section
583 V.D.].
 - 584 ▪ The Law provides that violations of this Law shall be addressed using the applicable
585 enforcement tools provided by the Nation's laws and policies including, but not limited
586 to, those related to employment with the Nation, conflicts of interest, ethics, and
587 removal from an elected position. [1 O.C. 121.12-2].
 - 588 ▪ An employee of the Nation who violates this Law may be addressed through the
589 disciplinary procedures found in Section V.D. of the Oneida Personnel Policies and
590 Procedures.
- 591 ▪ *Conflict of Interest Law.* The Conflict of Interest law ensures that all employees, contractors,
592 elected officials, officers, political appointees, appointed and elected members and all others
593 who may have access to information or materials that are confidential or may be used by
594 competitors of the Nation's enterprises or interests be subject to specific limitations to which
595 such information and materials may be used in order to protect the interests of the Nation. [2
596 O.C. 217.1-1].
 - 597 ▪ The Law provides that violations of this Law shall be addressed using the applicable
598 enforcement tools provided by the Nation's laws and policies including, but not limited
599 to, those related to employment with the Nation, conflicts of interest, ethics, and
600 removal from an elected position. [1 O.C. 121.12-2].
 - 601 ▪ The Conflict of Interest law provides that if a supervisor is provided credible evidence
602 that an employee has failed to disclose a conflict of interest, the employee shall be

- 603 placed on leave pursuant to the Nation's Investigative Leave Policy, except that the
604 duration of the investigation for an alleged conflict of interest shall be concluded within
605 seven (7) days of the employee being placed on leave. A supervisor shall terminate an
606 employee from his or her employment with the Nation when an investigation
607 substantiates that the employee failed to disclose a conflict of interest. [2 O.C. 217.6-
608 1].
- 609 ■ The Conflict of Interest law provides that an Oneida Business Committee member who
610 fails to disclose a conflict of interest may be subject to removal pursuant to the
611 Removal Law or penalties pursuant to laws of the Nation regarding penalties. [2 O.C.
612 217.6-2].
 - 613 ■ The Conflict of Interest law provides that an elected or appointed official of the Nation
614 who fails to disclose a conflict of interest may be subject to penalties pursuant to laws
615 of the Nation regarding penalties, and subject to removal pursuant to the Removal Law
616 for elected members, or have their appointment terminated by the Oneida Business
617 Committee pursuant to the law governing board, committees and commissions for
618 appointed members. [2 O.C. 217.6-3].
 - 619 ■ *Code of Ethics.* The Code of Ethics promotes the highest ethical conduct in all of its elected
620 and appointed officials, and employees. [1 O.C. 103.1-1].
 - 621 ■ The Law provides that violations of this Law shall be addressed using the applicable
622 enforcement tools provided by the Nation's laws and policies including, but not limited
623 to, those related to employment with the Nation, conflicts of interest, ethics, and
624 removal from an elected position. [1 O.C. 121.12-2].
 - 625 ■ The Code of Ethics law provides that a government official who violates any portion
626 of the Code of Ethics as it applies to them, may be subject to removal, if elected, or
627 termination, if appointed. [1 O.C. 103.6-1(a)].
 - 628 ■ The Code of Ethics law provides that an individual from a program or enterprise of the
629 Nation who violates any portion of the Code of Ethics as it applies to them, may be
630 subject to the disciplinary procedures found in the Oneida Personnel Policies and
631 Procedures. [1 O.C. 103.6-1(b)].
 - 632 ■ *Removal Law.* The Removal law governs the removal of persons elected to serve on boards,
633 committees and commissions of the Nation. [1 O.C. 104.1-1].
 - 634 ■ The Law provides that violations of this Law shall be addressed using the applicable
635 enforcement tools provided by the Nation's laws and policies including, but not limited
636 to, those related to employment with the Nation, conflicts of interest, ethics, and
637 removal from an elected position. [1 O.C. 121.12-2].
 - 638 ■ An elected official of the Nation who violates this Law may be addressed through the
639 removal procedures found the Removal law.
 - 640 ■ *Furlough Policy.* The Furlough Policy enables the Nation to implement a furlough as a tool to
641 remedy an operating budget deficit. [2 O.C. 205.1-1].
 - 642 ■ This Law provides that as part of the budget contingency plan, the Oneida Business
643 Committee may require the use of cost saving tools, provided that the use of such
644 complies with all laws of the Nation. [1 O.C. 121.10-2]. Cost saving tools may include
645 furloughs. [1 O.C. 121.10-2(c)].

- Any furloughs made as part of the Nation's budget contingency plan shall be made in accordance with the furlough process provided in the Furlough Policy. [2 O.C. 205].
- *Layoff Policy.* The purpose of the Layoff Policy is to establish a fair, respectful policy for employee layoff and recall which enables the Nation's programs and enterprises to operate effectively and efficiently in varying economic conditions within the parameters of Oneida Nation Seventh Generation mission, priorities, and objectives. [2 O.C. 207.1-1].
 - This Law provides that as part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include layoffs.
 - Any layoffs made as part of the Nation's budget contingency plan shall be made in accordance with the layoff process provided in the Layoff Policy. [2 O.C. 207].

SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

- A. **Enforcement.** The Law provides that all employees and officials of the Nation are required to comply with and enforce this Law to the greatest extent possible. [1 O.C. 121.12-1]. The Executive Managers are required to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. And then a list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council. [1 O.C. 121.12-1].
- B. **Consequences of Violation of this Law.** Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position. [1 O.C. 121.12-2]. Additionally, this Law does not preclude the Nation from pursuing civil or criminal charges under any federal or state civil or criminal laws, or any laws of the Nation. [1 O.C. 121.12-3].

SECTION 9. OTHER CONSIDERATIONS

- A. **Approval Through Adoption of a Resolution.** There are many instances throughout this Law in which the approval of information, plans, or guidelines by the Oneida Business Committee or the General Tribal Council is required to occur through the adoption of a resolution.
- **Examples.** Examples of the requirement of approval through the adoption of a resolution can be seen in the following instances throughout the Law:
 - **Section 121.5-4 Budget Schedule and Guidelines.** The Treasurer is required to submit budget guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.
 - **Section 121.5-4(3) Budget Schedule and Guidelines Deadline.** The Oneida Business Committee is required to set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.
 - **Section 121.5-4(c) Final Draft Budget.** The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.
 - **Section 121.5-4(e) Budget Adoption.** 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.

- 689 ▪ **Section 121.5-4(e)(1) Continuing Budget Resolution.** In the event that the General Tribal
690 Council does not adopt a budget by September 30th, the Oneida Business Committee may
691 adopt a continuing budget resolution(s) until such time as a budget is adopted by the
692 General Tribal Council.
- 693 ▪ **Section 121.5-5 Amendments to the Nation's Budget.** The Oneida Business Committee
694 shall be responsible for adopting any amendment to the budget through resolution of the
695 Nation.
- 696 ▪ **Section 121.6-2 Procurement Manual.** The Procurement Manual, and any amendments
697 thereto, shall be approved by the Oneida Business Committee through adoption of a
698 resolution.
- 699 ▪ **Section 121.6-4(b) Notification of Unbudgeted Expenditures.** The Oneida Business
700 Committee shall set through resolution a threshold amount for unbudgeted expenditures
701 that require notification by the Oneida Business Committee to the General Tribal Council
702 at the next available General Tribal Council meeting.
- 703 ▪ **Section 121.6-4(c) Unbudgeted Supplemental Funding.** In the event that the Nation
704 receives any supplemental or emergency funding of two hundred and fifty thousand dollars
705 (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through
706 resolution, a spending plan to guide expenditures of the supplemental funding in
707 accordance with any provided guidance for the supplemental funding and audit
708 compliance.
- 709 ▪ **Section 121.6-5 Obligated Future Expenditures.** No fund unit shall obligate the Nation
710 to make any future expenditures beyond the current budget year unless the fund unit
711 identifies, and the Oneida Business Committee approves through the adoption of a
712 resolution, the source and extent of any future funds that are recommended to be held in
713 reserve to meet that future obligation.
- 714 ▪ **Section 121.9-1 Employment Cap.** The Oneida Business Committee shall have the
715 authority to approve this employment cap, and any amendments thereto, through the
716 adoption of a resolution.
- 717 ▪ **Section 121.9-2 Labor Allocations List.** The Oneida Business Committee shall have the
718 authority to adopt the labor allocation list, and any amendments thereto, through the
719 adoption of a resolution.
- 720 ▪ **Section 121.9-2 Labor Allocations List SOP.** The Oneida Business Committee shall
721 approve this standard operating procedure for revisions to the labor allocations list, and
722 any amendments thereto, through the adoption of a resolution.
- 723 ▪ **Section 121.10-1(b) Budget Contingency Plan.** The Oneida Business Committee shall
724 approve the budget contingency plan, and any amendments thereto, through the adoption
725 of a resolution.
- 726 ▪ **Section 121.10-4 Permanent Executive Contingency Fund Account.** The Treasurer , in
727 consultation with the CFO, shall establish, and the Oneida Business Committee shall
728 approve through the adoption of a resolution, the percentage of the annual budget that shall
729 be set aside in the Permanent Executive Contingency Fund account until the established
730 level has been achieved.
- 731 ▪ **Conclusion.** The Legislative Operating Committee will need to ensure that any information that is
732 required to be approved through resolution prior to this Law being implemented is presented to the

Oneida Business Committee for consideration in a resolution at the time of adoption of this Law. Additionally, the Legislative Operating Committee will need to ensure the Oneida Business Committee is aware of its responsibilities of approving information, guidelines, or plans through the adoption of a resolution when it is applicable.

B. *Fiscal Impact.* Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,*” provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- *Conclusion.* The Legislative Operating Committee has not yet requested a fiscal impact statement for this Law. A fiscal impact statement will be needed in the future, prior to the consideration of this Law by the Oneida Business Committee.

Title 1. Government and Finances – Chapter 121

BUDGET MANAGEMENT AND CONTROL

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

| | | | |
|--------|-----------------------------|---------|-------------------------------------|
| 121.1. | Purpose and Policy | 121.7. | Appropriation of the Nation's Funds |
| 121.2. | Adoption, Amendment, Repeal | 121.8. | Budget Authority |
| 121.3. | Definitions | 121.9. | Budget Transfers; Amendments |
| 121.4. | Strategic Planning | 121.10. | Reporting |
| 121.5. | Budget Process | 121.11. | Authorizations and Signatures |
| 121.6. | Capital Improvements | 121.12. | Enforcement and Penalties |

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 financial policies and procedures for the Nation which: a triennial strategy planning process for the Nation's budget.

(a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;

(b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;

(c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;

(d) establish a framework for effective financial risk management; and

(e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on value-based balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

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 amended by resolution BC- - - - .

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.~~

(a) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

~~(b)~~ (c) “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 useful 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)~~ (d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.~~00~~) or more and ~~an estimated a useful~~ life of one (1) year or more.⁺

~~(d)~~ (e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

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

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. The Debt Service Coverage Ratio is calculated by dividing the net operating income

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

by the total debt service costs.

(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.

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

~~(gh)~~ “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, any one of the following positions within the Nation: Chief Executive Officer/General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and/or Chief Financial Officer.

~~(hi)~~ “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.

~~(j)~~ “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

~~(ik)~~ “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

~~(l)~~ “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.

~~(jm)~~ “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.

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

~~(no)~~ “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

~~(op)~~ “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)~~ “Secretary” means the Oneida Nation Secretary.

~~(qr)~~ “Treasurer” means the elected Oneida Nation Treasurer, or his or her their designee at their discretion.

121.4. Strategic Planning Authority and Responsibilities

121.4-1. Oneida Business Committee. The Oneida Business Committee shall:

- (a) oversee the development of the Nation's budget;
(b) oversee the implementation of the Nation's budget;
(c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
(d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council. *Triennial Strategic Plan.* Prior to December 1st 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:
(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. Treasurer. In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation's Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
(b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
(c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
(1) the annual General Tribal Council meeting;
(2) the semi-annual General Tribal Council meeting; and
(3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and
(d) present the proposed draft budget to the General Tribal Council at the annual budget meeting. *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. Chief Financial Officer. The CFO shall:

- (a) ensure the Nation's budget is properly implemented;
- (b) provide managers with monthly revenue and expense reports;
- (c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:
 - (1) a difference of three percent (3%) or more from the adopted annual budget; or
 - (2) fifty thousand dollars (\$50,000) or more in total;
- (d) provide the Oneida Business Committee with information and reports as requested;
- (e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and
- (f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

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.~~

~~(e) 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.~~

121.4-4. Managers. Managers shall:

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

~~(b) Report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:~~

~~(1) a difference of three percent (3%) or more from the adopted annual budget; or~~

~~(2) fifty thousand dollars (\$50,000) or more in total;~~

~~(c) 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; and~~

~~(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.~~

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 General Tribal Council. In creating the budget to present to the General Tribal Council for consideration, the Oneida Business Committee, executive managers and managers shall follow the processes provided in this law. The Oneida Business Committee may alter the deadlines provided in this law only upon a showing of good cause, provided that, the Oneida Business Committee shall approve any such alterations by resolution.~~

~~(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.~~

~~(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.~~

~~(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.~~

~~(c) The Nation's corporate entities shall not be included in the Nation's budget.~~

121.5-2. Content of the Budget. The Nation's budget shall include the following information:

~~(a) Estimated revenues to be received from all sources;~~

~~(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) Summary of employment position counts including prior year, current year, and budgeted year.~~

~~Community Input Budget Meeting(s). The Treasurer's office shall schedule, at a minimum, one (1) community input budget meeting(s) prior to December 1st of each year. At the community input budget meeting(s), the Treasurer shall afford community members an opportunity to provide input as to what should be included in the upcoming fiscal year budget. Any fund units that plan~~

to request forecast variations for the upcoming budget shall present the need and anticipated dollar amount of the requested forecast variation. For the purposes of this section, a forecast variation is a fund unit's requested deviation from the performance targets the fund unit submitted pursuant to 121.4-2(d)(2).

(a) The Treasurer shall ensure the community budget input meeting(s) are voice recorded and transcribed.

(b) The CFO shall provide recommendations as to any forecast variations requested by fund units.

(c) The CFO and any relevant managers shall provide responses and/or recommendations to all comments and considerations presented by community members.

(d) The Treasurer shall work with the CFO to place a community budget input meeting packet on the Oneida Business Committee agenda no later than the last Oneida Business Committee Meeting in January. At a minimum, the packet is required to include:

(1) The community input budget meeting(s) transcript(s);

(2) Any applicable fund unit's requested forecast variations; and

(3) Responses and/or recommendations by the CFO and any relevant managers regarding requests for forecast variations and community members' comments and considerations related to forecast variations.

121.5-3. Fund Categories. The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) General Fund. The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) Permanent Executive Contingency Fund. The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) Grant Reserve Fund. The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

Priority List Established by the Oneida Business Committee. The Oneida Business Committee shall review the community input budget meeting packet and shall hold work meetings to create a priority list.

(a) The Oneida Business Committee shall establish the priority list by placing the following services provided by the Nation in chronological order with the lowest number having the highest priority. The order of the following service groups provided below has no relation to the service groups' anticipated and/or required placement within the Oneida Business Committee's priority list; the Oneida Business Committee's priority list may vary from year to year based on the needs of the Nation:

(1) Protection and Preservation of Natural Resources

(2) Protection and Preservation of Oneida Culture and Language

(3) Education and Literacy

(4) Health Care

(5) Economic Enterprises

(6) Building and Property Maintenance

(7) Human Services

(8) Public Safety

(9) Housing

(10) Utilities, Wells, Wastewater and Septic

- (11) Planning, Zoning and Development
(12) Membership Administration
(13) Government Administration
~~(b) The Oneida Business Committee shall approve the priority list by resolution no later than the last meeting in February.~~
~~(c) The CFO shall maintain a list which places each fund unit into a corresponding service group.~~

121.5-4. 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, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission by the Oneida Business Committee.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

(b) Annual Proposed Budgets. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.

(1) Notification of Budget Increases. The Treasurer shall identify in the budget guidelines a percentage of an increase in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased by this percentage.

(c) Final Draft Budget. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) Community Meetings. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) Budget Adoption. 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. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) Continuing Budget Resolution. 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 by the General Tribal Council.

(2) Emergency Budget Adoption. In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

~~Annual Proposed Budgets. The CFO shall develop the necessary guidelines, including specific deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. Upon review of the Nation's economic state, the CFO shall include in the guidelines the exact amount that each service group's cumulative budget is required to be increased/decreased in accordance with its placement on the priority list. The CFO shall submit the guidelines, as approved by the Treasurer, to the Oneida Business Committee for review in accordance with the deadline as set by the Oneida Business Committee. The Oneida Business Committee may revise the guidelines as it deems necessary and shall approve a set of budgetary guidelines within thirty (30) calendar days of the date the budgetary guidelines proposed by the CFO were received.~~

~~(a) In accordance with the approved budgetary guidelines, fund units offering like services shall meet together to review each fund unit's budget and discuss strategies for attaining compliance with the approved budgetary guidelines. Each service group shall submit one (1) draft budget which contains each fund unit's individual proposed budget and demonstrates cumulative compliance with the approved budgetary guidelines.~~

~~(b) The CFO shall receive, review and compile the proposed budgets into the Nation's draft budget which the CFO shall present to the Oneida Business Committee no later than the last Oneida Business Committee meeting in May. The CFO may not alter any proposed budgets until such budgets have been reviewed by the Oneida Business Committee.~~

~~(1) The CFO shall return any service group's draft budget that is in non-compliance with the approved budgetary guidelines within ten (10) business days of the date the budget was submitted to the CFO.~~

~~(2) Upon return, the CFO shall notice the service group of the amount of its non-compliance and provide the service group with a deadline for a compliant resubmission.~~

~~(3) Any service group's budget that remains in non-compliance upon the expiration of the deadline provided by the CFO shall be included in the draft budget submitted to the Oneida Business Committee noting the dollar amount of the service group's non-compliance. A service group's continued non-compliance may result in employee discipline according to the Nation's laws, rules and policies governing employment.~~

121.5-5. Amendments to the Nation's Budget. After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida

Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

Content of Budget. ~~The CFO shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's spending priorities and budget strategy. The Nation's draft budget shall include, but is not limited to:~~

- ~~(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.~~

~~121.5-6. Review of Draft Budget.~~ ~~In the month of May, the CFO shall meet with the Oneida Business Committee to review the draft budget and provide any recommendations for modifications.~~

~~(a) Following the Oneida Business Committee's review of the draft budget with the CFO, the Oneida Business Committee shall schedule meetings with managers of each fund unit for which the Oneida Business Committee is considering altering the fund unit's proposed budget.~~

~~(b) The Oneida Business Committee shall complete all meetings with fund unit managers required by this section by the end of June each year.~~

~~121.5-7. Final Draft Budget.~~ ~~The Oneida Business Committee shall work with fund unit managers and the CFO to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council by the end of July each year.~~

~~121.5-8. Community Meetings.~~ ~~Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.~~

~~121.5-9. Budget Adoption.~~ ~~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.~~

121.6. Capital Improvements Expenditures and Assets

~~121.6-1. Authority to Expend Funds.~~ The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual. 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. *Procurement Manual.* The Purchasing Department shall develop a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation. The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution. ~~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. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements. ~~Capital Improvement Plan Implementation. Capital Improvement plans shall be implemented, contingent on available funding capacity, using the capital improvement rules.~~

121.6-4. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* The Oneida Business Committee shall approve any unbudgeted expenditure prior to the expenditure being made by a fund unit.

(b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* No fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall 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.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer 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 returned to the General Fund.

121.6-7. Capital Contributions. Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. Capital Improvements.

(a) 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.

(1) 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.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. 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.

(b) Capital Improvement Plan for Enterprises. Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) Capital Improvement Plan Implementation. Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Appropriation of the Nation's Funds Grants

121.7-1. Expending Grant Funds. Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

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. *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. ~~*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.~~

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

- (a) information on the progress of the utilization of the grant funds;
- (b) the number of employees the grant funding supports fully or partially; and
- (c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund, that is fully funded with separately identified cash resources.

- (a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.
- (b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated until such a time that a new position can be included and approved in the Nation's annual budget and labor allocations.

121.8. ~~Budget Authority Debts~~

121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

- (a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered. ~~*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. *Notice of the Acquisition of Debt.* Any debt underwritten by the Nation for one million dollars (\$1,000,000) or more shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment. ~~*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. Use of Debt. Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default. 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.

121.8-4. Credit Ratios. Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) Debt Service Coverage Ratio. The Debt Service Coverage Ratio shall not exceed a range of zero (0) to two (2) as defined by Generally Accepted Accounting Principles.

(b) Fixed Charge Coverage Ratio. The Fixed Charge Coverage Ratio shall be maintained at a range of one and twenty-five hundredths (1.25) or higher as defined by Generally Accepted Accounting Principles.

121.8-5. Corporate Debt. The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. ~~Budget Transfers; Amendments~~ Employment and Labor Allocations

121.9-1. Employment Cap. The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap. ~~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. Labor Allocations List. The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

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

121.9-3. Unbudgeted Positions. Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) Exception. The Oneida Business Committee may authorize an unbudgeted position for a fund unit.

121.10. ~~Reporting~~ Budget Contingency Planning

121.10-1. Budget Contingency Plan. The Oneida Business Committee shall work with the CFO, ~~E~~Executive ~~M~~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.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution. ~~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. Cost Saving Tools. As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such tools complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs. ~~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.~~

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. Permanent Executive Contingency Fund Account. The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund 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 Permanent Executive Contingency Fund account shall be a restricted fund.

- (a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.
- (b) The Treasurer , in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.
- (c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:
 - (1) ~~P~~payments to notes payable to debt service, both principal and interest, and applicable service fees;
 - (2) ~~E~~mployee payroll, including all applicable taxes;

- (3) Ppayments to vendors for gaming and retail;
(4) Ppayments to vendors for governmental operations;
(5) Ppayments to any other debt; and
(6) Tto sustain any of the Nation's other operations during implementation of the budget contingency plan.

121.11. ~~Authorizations and Signatures~~ Reporting

121.11-1. Monthly Reporting. The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

(a) The Treasurer's monthly reports shall include revenue and expense summaries.

~~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. Annual and Semi-Annual Reporting to the General Tribal Council. The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

~~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.~~

121.11-3. Audits. The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's 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.

121.12. 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.

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

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121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies 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, or any laws of the Nation, may be pursued in a court having jurisdiction over any such matter.

End.

Adopted-BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extension – BC-11-10-21-B

Amended – BC- - - -

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
121.2. Adoption, Amendment, Repeal
121.3. Definitions
121.4. Authority and Responsibilities
121.5. Budget
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121.7. Grants
121.8. Debts
121.9. Employment and Labor Allocations
121.10. Budget Contingency Planning
121.11. Reporting
121.12. Enforcement

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 the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

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 amended by resolution BC-__-__-__.

121.2-2. This law may be amended or repealed by the Oneida Business Committee 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) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

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

(1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful 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), but the total purchase price for all of the items is ten thousand dollars (\$10,000) or more.

(d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more.

(e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

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

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. The Debt Service Coverage Ratio is calculated by dividing the net operating income by the total debt service costs.

(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.

(h) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer.

(i) “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.

(j) "Finance Administration" means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

(k) "Fiscal year" means the one (1) year period each year from October 1st to September 30th.

(l) "Fixed Charge Coverage Ratio" means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.

(m) "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.

(n) "Line item" means the specific account within a fund unit's budget or category that expenditures are charged to.

(o) "Manager" means the person in charge of directing, controlling, and administering the activities of a fund unit.

(p) "Nation" means the Oneida Nation.

(q) "Secretary" means the Oneida Nation Secretary.

(r) "Treasurer" means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee*. The Oneida Business Committee shall:

- (a) oversee the development of the Nation's budget;
- (b) oversee the implementation of the Nation's budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer*. In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation's Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
 - (1) the annual General Tribal Council meeting;
 - (2) the semi-annual General Tribal Council meeting; and
 - (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and

(d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer.* The CFO shall:

(a) ensure the Nation's budget is properly implemented;
(b) provide managers with monthly revenue and expense reports;
(c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

(d) provide the Oneida Business Committee with information and reports as requested;

(e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and

(f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

121.4-4. *Managers.* Managers shall:

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

(b) report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

(c) 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; and

(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.

121.5. Budget

121.5-1. 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.

(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.

(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.

(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.

(c) The Nation's corporate entities shall not be included in the Nation's budget.

121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:

(a) Estimated revenues to be received from all sources;

(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) Summary of employment position counts including prior year, current year, and budgeted year.

121.5-3. *Fund Categories*. The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) *General Fund*. The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) *Permanent Executive Contingency Fund*. The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) *Grant Reserve Fund*. The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

121.5-4. *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, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

(b) *Annual Proposed Budgets*. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.

(1) *Notification of Budget Increases*. The Treasurer shall identify in the budget guidelines a percentage of an increase in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased by this percentage.

(c) *Final Draft Budget*. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) *Community Meetings*. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) *Budget Adoption.* 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. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution.* 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 by the General Tribal Council.

(2) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual.

121.6-2. *Procurement Manual.* The Purchasing Department shall develop a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation. The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

121.6-4. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* The Oneida Business Committee shall approve any unbudgeted expenditure prior to the expenditure being made by a fund unit.

(b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* No fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall 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.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer 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 returned to the General Fund.

121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements.*

(a) *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.

(1) 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.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. 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.

(b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) *Capital Improvement Plan Implementation.* Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Grants

121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

121.7-2. *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.

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

(a) information on the progress of the utilization of the grant funds;

(b) the number of employees the grant funding supports fully or partially; and

(c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund, that is fully funded with separately identified cash resources.

(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.

(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated until such a time that a new position can be included and approved in the Nation's annual budget and labor allocations.

121.8. Debts

121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered.

121.8-2. *Notice of the Acquisition of Debt.* Any debt underwritten by the Nation for one million dollars (\$1,000,000) or more shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment.

121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default.

121.8-4. *Credit Ratios.* Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio.* The Debt Service Coverage Ratio shall not exceed a range of zero (0) to two (2) as defined by Generally Accepted Accounting Principles.

(b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained at a range of one and twenty-five hundredths (1.25) or higher as defined by Generally Accepted Accounting Principles.

121.8-5. *Corporate Debt.* The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Employment and Labor Allocations

121.9-1. *Employment Cap.* The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap.

121.9-2. *Labor Allocations List.* The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

121.9-3. *Unbudgeted Positions.* Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception.* The Oneida Business Committee may authorize an unbudgeted position for a fund unit.

121.10. Budget Contingency Planning

121.10-1. *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.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution.

121.10-2. *Cost Saving Tools.* As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund 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 Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress 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.

121.11. Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

(a) The Treasurer's monthly reports shall include revenue and expense summaries.

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's 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.

121.12. 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.

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies 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 or Criminal Charges.* This law shall not be construed to preclude the Nation from pursuing civil or criminal charges under applicable law. Violations of applicable federal or state civil or criminal laws, or any laws of the Nation, may be pursued in a court having jurisdiction over any such matter.

End.

Adopted – BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extension – BC-11-10-21-B

Amended – BC-__-__-__-__

December 2021

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| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
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| Nov 28 | 29 | 30 | Dec 1 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago | 10 | 11 |
| 12 | 13 | 14 | 15 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 12:00pm Holiday Off - Christmas Eve | 24 8:00am Holiday Off - Christmas | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 8:00am Holiday Off - New Year's Day | Jan 1, 22 |