



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

February 16, 2022

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. February 2, 2022 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Budget Management and Control Law Amendments (pg. 4)
2. Wellness Court Law (pg. 57)

IV. New Submissions

1. Oneida Nation Veterans Affairs Committee Bylaws Amendments (pg. 63)

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
February 2, 2022
9:00 a.m.

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

Others Present: Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Brooke Doxtator, Lawrence Barton, Kristal Hill (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Amy Spears (Microsoft Teams), Eric Boulanger (Microsoft Teams), Barbara Webster (Microsoft Teams), Nicolas Reynolds (Microsoft Teams), Todd Vandenheuvel (Microsoft Teams), Whitney Wheelock (Microsoft Teams), Iris Hill (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the February 2, 2022, 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. January 19, 2022 LOC Meeting Minutes

Motion by Marie Summers to approve the January 19, 2022, LOC meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

III. Current Business

1. Furlough Law Amendments

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

IV. New Submissions

V. Additions

VI. Administrative Items

1. Legislative Operating Committee Fiscal Year 2022 First Quarter Report

Motion by Jennifer Webster to approve the LOC FY22 First Quarter Report with one revision [*change May 24, 2021 to May 24, 2022 in the second to last paragraph on page four of the report*] and forward to the Oneida Business Committee; seconded by Marie Summers. Motion carried unanimously.



VII. Executive Session

VIII. Adjourn

Motion by Marie Summers to adjourn at 9:21 a.m.; seconded by Daniel Guzman King.
Motion carried unanimously.



Legislative Operating Committee
February 16, 2022

Budget Management and Control Law Amendments

Submission Date: 10/7/20	Public Meeting: Due to the COVID-19 pandemic, public meetings were suspended by declaration of the Nation's COVID-19 Core Decision Making Team. A public comment period was still offered in accordance with the Legislative Procedures Act and held open until 2/2/22.
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.

12/15/21 LOC: Motion by Jennifer Webster to 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; seconded by Marie Summers. Motion carried unanimously.

2/2/22: *Public Comment Period Closed.* One (1) submission of written comments was received during the public comment period.

Next Steps:

- Accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*
DATE: February 16, 2022
RE: Budget Management and Control Law Amendments: Public Comment Review

On December 15, 2021, the Legislative Operating Committee approved a public comment period for the proposed amendments to the Budget Management and Control law (“the Law”) to be held open until February 2, 2022. A public meeting for the repeal of the Law was not held due to the COVID-19 pandemic.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 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 allowed 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 March 24, 2022, 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, BC-11-24-21-F, and BC-01-12-22-B.

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 allowed 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.

On August 3, 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 prohibits indoor public gatherings when the following conditions cannot be met:

- 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 ZIP Codes 54155, 54301, 54302 and 54303, 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.

Due to the fact that the conditions for holding an indoor public meeting have not been met in the Nation, in accordance with resolution BC-12-08-21-B, a public meeting for the proposed amendments to the Law was not held, but a public comment period was still held open.

Members of the community were provided an opportunity to provide written submissions of comments or questions to the Legislative Operating Committee through e-mail until February 2, 2022. This memorandum serves as the review of the written comments that were received during the public comment period for the proposed amendments to the Law.

Comment 1 – Definition of Executive Manager:

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.

(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.

Lisa Liggins (written): Line 74 – the list of BC Direct Reports/Executive Managers has changed many times in the past seven (7) years. Understanding that its definition states “including, but not limited to”, I suggest, instead, the law should require a resolution to define this group of positions. This would be provide greater flexibility and clarity.

Response

The commenter suggests that in an effort to provide greater flexibility and clarity, that reference to a resolution of the Nation be included in the definition for executive manager which would define this group of positions.

Currently, resolution BC-09-23-20-A, *Setting Supervision and Management of Direct Reports to the Oneida Business Committee*, defines direct reports as the following positions: Chief Counsel, General Manager, Gaming General Manager, Retail General Manager, Business Compliance Analyst, Intergovernmental Affairs and Communications Director, Emergency Management Director, Human Resources Department Area Manager, Strategic Planner, Project Manager, Project Coordinator, Budget Analyst, Executive Assistant, and Employee Relations.

In an effort to provide better clarity as to the interpretation of this Law, the following revision is recommended:

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.

(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, as identified by the Oneida Business Committee through the adoption of a resolution~~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.~~

Additionally, the Legislative Operating Committee may want to consider whether the term “executive manager” should be revised to the term “direct report” to be consistent with terminology used throughout the Nation in other capacities.

LOC Consideration

Comment 2 – Definition of Finance Administration:

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.

(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.

Lisa Liggins (written): Line 82 – we know from experience, especially over the last two years, that including specific positions in laws can be a hinderance when there are changes (layoffs, budget cuts, reorganization, etc). I suggest making a more general statement about the department and its function. Or remove it entirely if my suggestion in line 189 is considered.

Response

The commenter suggests revising the definition for “Finance Administration” so that it more generally describes the function of the department instead of just the positions, since we know that positions may change, or remove the use of the term entirely.

The Finance Administration is currently defined in the proposed amendments to the Law as the department of the Nation which consists of the Chief Financial Officer (CFO), Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee. [1 O.C. 121.3-1(j)]. The Assistant Chief Financial Officer and the executive assistance to the Chief Financial Officer are both positions that are under the purview and supervision of the Chief Financial Officer. The term “CFO” is defined in the Law as the Nation’s Chief Financial Officer, or their designee at their discretion. [1 O.C. 121.3-1(e)]. Due to the fact that the term CFO already encompasses the use of a designee at the CFO’s discretion, it is recommended that the

following revisions to the Law be made in order to simplify the terminology used throughout the Law:

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.

~~(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.~~

121.5. Budget

121.5-4. *Budget Adoption Procedure.* The Nation shall develop and adopt its budget according to the following procedures:

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

LOC Consideration

Comment 3 – Definition for Fixed Charge Coverage Ratio:

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.

(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.

Lisa Liggins (written): Line 87 – In researching this term, there are a few variations of how this can be calculated. This appears to be a policy decision wrapped in the law. With a change in leadership or management, the could be a different approach. I suggest either a footnote or some other documentation as to how/why this particular version is being used. Or that it be removed from the law and defined by resolution so that it could be changed as needed.

Response

The commenter highlights potential issues that may arise with including the calculation for fixed charge coverage ratio in the definition for this term provided in the Law. In an effort to ensure that the Law remains flexible enough to adjust to changes in how different ratios are calculated, or changes in what is considered acceptable ranges for such ratios as determined by the Generally Accepted Accounting Principles, the following revisions to the Law are recommended:

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.

(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.~~

(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.~~

121.8. Debts

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 the acceptable 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 the acceptable range ~~of one and twenty five hundredths (1.25) or higher~~ as defined by Generally Accepted Accounting Principles.

(c) Calculation of Ratios and Ranges. The Treasurer, in consultation with the CFO, shall provide, and the Oneida Business Committee shall approve through the adoption of a resolution, the calculations for determining the debt service coverage ratio and the fixed charge coverage ratio for the Nation. This resolution shall also include the current acceptable range for both the debt service coverage ratio and the fixed charge coverage ratio as defined by the Generally Accepted Accounting Principles.

LOC Consideration

Comment 4 – Deletion of Deadline from Budget Schedule and Guidelines Requirement:

121.5. Budget

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.

(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.

Lisa Liggins (written): Line 184 – I’m glad to see the deadline removed from this section; it was in draft 1 from October 2021. Thank you.

Response

The commenter expresses support for removing the deadline for when the Treasurer shall develop the necessary budget schedule and guidelines that was included in a prior draft of the proposed amendments to the Law. Instead, the Law now allows for more flexibility by providing that 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. [1 O.C. 121.5-4(a)(3)].

There is no recommended revision to the proposed amendments to the Law based on this comment.

LOC Consideration

Comment 5 – Submission of Budgets by the Finance Administration:

121.5. Budget

121.5-4. (a)(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.

Lisa Liggins (written): Line 189-190 – “The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.” I don’t believe that Finance should be submit any budgets on behalf of any fund unit, regardless of express permission from the OBC. My understanding from the budget meetings I’ve attended over the past 7 years, is that Finance is available to assist anyone that has questions, that there are resources available to the fund units. Still, Finance continues to have to enter budgets. I understand

this would be a change. I suggest this line be deleted in its entirety and that there be a provision in the adopting resolution that requires notice to those areas that haven't been submitting on their own budgets and that appropriate training be offered by Finance.

Response

The commenter provides that the Law should not allow the Finance Administration to submit a budget on behalf of a fund unit if granted express permission from the Oneida Business Committee, and instead the adopting resolution should require the Finance Administration to provide appropriate training to any fund unit that has had the Finance Administration enter their budget in the past, so that the fund unit can move forward without having to rely on the Finance Administration to enter their budget in the future.

It is the responsibility of each fund unit to comply with the budget schedule and guidelines to submit a proposed budget to the Treasurer. [1 O.C. 121.5-4(a)(2)]. Although it is not the responsibility of the Finance Administration to submit a budget on behalf of a fund unit, this is a task that the Finance Administration regularly is required to undertake to ensure the budget moves forward in accordance with the schedule and guidelines. In an effort to curb a fund unit's use of the Finance Administration to submit a budget on their behalf, the Law was revised to prohibit the Finance Administration from submitting any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee. [1 O.C. 121.5-4(a)(2)]. The Legislative Operating Committee made the determination to allow the Oneida Business Committee to grant permission to the Finance Administration to submit a budget on behalf of a fund unit in recognition that extenuating circumstances may arise where this is necessary.

Whether to prohibit the Finance Administration from submitting any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, so that the Finance Administration is prohibited from submitting any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee
2. The Law should be revised so that there is no exception to the prohibition of the Finance Administration from submitting a budget on behalf of a fund unit. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

121.5. Budget

121.5-4. (a)(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.~~

LOC Consideration

Comment 6 – Notification of Budget Decrease:

121.5. Budget

121.5-4. (b)(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.

Lisa Liggins (written): Line 200 – Should there be a notice of decrease (i.e. program ended)?

Response

The commenter questions whether the Law should require notice to the Oneida Business Committee of a decrease in a fund unit's budget from the prior year budget of a certain percentage, since the proposed amendments to the Law will require than an increase of an identified percentage be noticed to the Oneida Business Committee.

The requirement of notification to the Oneida Business Committee of any fund units whose proposed budget increased by an identified percentage was included in the Law to ensure that the Oneida Business Committee is aware of and monitoring any fund unit's budget which increased beyond what the Treasurer had deemed a normal percentage increase for that year, which could have potential negative impacts on producing a balanced budget. This notification increases transparency between the fund units, and also provides an increase in accountability by the fund units, since they would know their increase in budget will be notified to the Oneida Business Committee.

Whether to also include the requirement that a decrease in a fund unit's budget of a specified percentage be required to be notified to the Oneida Business Committee is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

3. The Law should remain as currently drafted, and it is not necessary that decrease in a fund unit's budget of a specified percentage be required to be notified to the Oneida Business Committee.
4. The Law should be revised so that decrease in a fund unit's budget of a specified percentage be required to be notified to the Oneida Business Committee. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

121.5-4. (b)(1) *Notification of Budget Increases or Decrease.* The Treasurer shall identify in the budget guidelines a percentage of an increase or decrease 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 or decreased by this percentage.

LOC Consideration

Comment 7 – Adoption of Budget when Lacking Quorum of General Tribal Council:

121.5. Budget

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. 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.

Lisa Liggins (written): Line 213 – There was a time, not to long ago, when we couldn't get quorum for GTC meetings. I don't see a provision for what happens if that occurs.

Response

The commenter questions what would happen if the General Tribal Council was unable to get a quorum for a meeting to adopt the Nation's budget. The General Tribal Council is responsible for adopting the Nation's budget by September 30th of each year. [1 O.C. 121.5-4(e)]. If the General Tribal Council is unable to adopt the Nation's budget by September 30th of each year - whether that is due to a lack of quorum of members of the General Tribal Council, inclement weather that results in the cancelation of a General Tribal Council meeting, lack of available meeting space, or failure by the General Tribal Council to take action on the budget during a meeting – then the Law allows the Oneida Business Committee to adopt a continuing budget resolution until such time as a budget is adopted by the General Tribal Council. [1 O.C. 121.5-4(e)(1)]. Therefore, if a lack of quorum prevents the General Tribal Council from adopting a budget by September 30th of each year, then the Oneida Business Committee may adopt a continuing budget resolution until the General Tribal Council can secure a quorum to adopt the budget.

Section 121.5-4(e)(1) of the Law adequately addresses a situation where a lack of quorum of the General Tribal Council prevents the budget from being adopted by September 30th of each year. Whether it is necessary for this Law to address the potential for a lack of quorum to disrupt the ability of the General Tribal Council to hold meetings on a long-term basis, or how long a continuing budget resolution should remain in effect is up to the discretion of the Legislative Operating Committee.

LOC Consideration

Comment 8 – Procurement Manual:

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.

Lisa Liggins (written): Line 235-243 – Per the Administrative Rulemaking law, a Rule is defined as “a set of requirements enacted by an authorized agency in order to implement, interpret and/or enforce a law of the Nation...” Based on how the Procurement Manual is used now and how it’s being referenced here, it is still a rule and should be treated as a such. Section 106.1-2. Of the Administrative Rulemaking law states “It is the policy of the Nation to ensure there is an efficient, effective and democratic process for enacting and revising administrative rules, and that authorized agencies act in a responsible and consistent manner when enacting and revising administrative rules.” Removing the rulemaking process, limits transparency, I wholly disagree with the change and believe this change is contrary to BC Resolution # 09-25-19-D Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources.

Response

The commenter disagrees with the Legislative Operating Committee’s decision to remove the requirement that the Purchasing Department development Procurement Manual rules in accordance with the Administrative Rulemaking law, and instead allow the Procurement Manual to be developed by the Purchasing Department and approved by the Oneida Business Committee through the adoption of a resolution.

The Budget Management and Control law was originally adopted by the Oneida Business Committee on February 8, 2021, through the adoption of resolution BC-02-08-17-C. Resolution BC-02-08-17-C also contained the directive that any rules required to be developed pursuant to the Budget Management and Control Law shall be in effect no later than October 1, 2017 – when the Budget Management and Control law was set to become effective. The Law adopted in 2017 contained two (2) delegations of rulemaking authority:

- The Community Development Planning Committee and the Development Division were delegated joint rulemaking authority to develop capital improvement rules [BC-02-08-17-C – 121.6-2]; and

- The Purchasing Department was delegated rulemaking authority to develop procurement manual rules [BC-02-08-17-C – 121.8-1].

Although it has been more than five (5) years since the Law was adopted, resolution BC-02-08-17-C's directive that any administrative rules required by the Law be in effect no later than October 1, 2017, was never complied with. To this date, the Purchasing Department has never brought forward the Procurement Manual as rules to be adopted by the Oneida Business Committee, and the Community Development Planning Committee and the Development Division have never developed capital improvement rules to be adopted by the Oneida Business Committee.

During the development of these proposed amendments to the Law, the Legislative Operating Committee had great discussion on the use of administrative rules for the Procurement Manual, and the issue of non-compliance in regard to the development of those administrative rules up to this point in time. The Legislative Operating Committee agrees that there is great value in the administrative rulemaking process. The process contained within the Administrative Rulemaking law is very similar to the legislative process contained in the Legislative Procedures Act the Legislative Operating Committee uses to develop new laws and amendments to the laws. The Administrative Rulemaking law provides an efficient, effective, and democratic process for enacting and revising administrative rules which ensures that the authorized agencies act in a responsible and consistent manner when developing those rules. [1 O.C. 106.1-2]. The process under the Administrative Rulemaking law not only requires that the authorized agency holds a public meeting and holds open a public comment period to collect input on proposed rules, but also requires that the authorized agency fully consider all comments received during the public comment period and during any public meeting held, and then draft a memorandum containing all public comments received and the authorized agency's response to each comment. [1 O.C. 106.6]. The administrative rulemaking process also requires that the authorized agency provide a financial analysis of the proposed rules. Although there are many benefits to the administrative rulemaking process, there are also some drawbacks. Compliance with developing rules in accordance with the Administrative Rulemaking law has been an ongoing issue. The process and requirements contained in the Administrative Rulemaking law can be cumbersome and difficult to understand for departments. Many departments also struggle with the actual drafting of their administrative rules – although they are the subject matter experts, it proves difficult for departments to transfer their knowledge and policies onto paper. Much like the legislative process, the administrative rulemaking process is rigid and time consuming, and does not allow much flexibility in changing policies efficiently absent the existence of emergency conditions.

The Legislative Operating Committee weighed the pros and cons of utilizing the administrative rulemaking process - a consistent system that ensures a greater opportunity for community input, with the necessity of allowing for policies to be flexible and change moving forward in a more efficient manner. The Legislative Operating Committee also discussed this issue with the Finance Administration during work meetings on the development of the amendments to this Law. The Finance Administration shared that currently the Procurement Manual more closely resembles a collection of standard operating procedures and contains references to outside sources such as requirements of federal law and standards from the Generally Accepted Accounting Principles (GAAP) established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB). The Finance Administration provided that due to the fact

that the Procurement Manual is more technical and relies on standards and requirements from outside sources, a great period for public comment may not be an effective utilization of time or resources. The Finance Administration recommended that the Procurement Manual remain as it has been treated historically and not be required to be developed as a rule under the Administrative Rulemaking law. The Legislative Operating Committee, still wanting some opportunity for public review and discussion, as well as oversight, determined that the Procurement Manual should be a manual that is approved by the Oneida Business Committee through adoption of a resolution.

The commenter expresses concern that decision to remove the requirement that the Purchasing Department develop Procurement Manual rules in accordance with the Administrative Rulemaking law may be contrary to Oneida Business Committee resolution BC-09-25-19-D, *Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources*. Through resolution BC-09-25-19-D the Oneida Business Committee adopts the following Good Governance principles and definitions:

- **Rule of Law:** Ensuring the rules are known and applied equally to all with clear appeal (if needed) and are enforced by an impartial regulatory body, for the full protection of Oneida Nation stakeholders.
- **Transparency:** Open communication about actions taken and decisions made ensuring access to information is clear.
- **Responsiveness:** Availability to the public and timeous reaction to the needs and opinions of the public.
- **Consensus Oriented:** Consultation is required to understand diverse interests (Membership, Employee, Community) in order to reach a broad consensus of what is in the best interest of the Nation and how this can be achieved in a sustainable and prudent manner.
- **Equity and Inclusiveness:** Providing the opportunity for the Nation's stakeholders to maintain, enhance, or generally improve their well-being which provides the most compelling message regarding its reason for existence and value to the Nation.
- **Effectiveness and Efficiency:** Processes implemented by the Nation producing favorable results which meets the needs of Membership, Employees, Community, while making the best use of resources – human, technological, financial, natural and environmental.
- **Accountability:** The acknowledgement and assumption of responsibility for decisions and actions as well as the applicable rules of law.
- **Participation:** Fostering a system in which the public feels that they are part of decision-making processes, including freedom of expression and assiduous concern for the best interests of the Tribe and community in general.

The approval of the Procurement Manual through the adoption of a resolution by the Oneida Business Committee still encompasses many of the Good Governance principles. The Oneida Business Committee agenda and meeting materials are typically made available on the Nation's website for review at least three (3) business days prior to the Oneida Business Committee meeting. This provides notice that the topic will be discussed at the Oneida Business Committee meeting, and also supports transparency since there is open communication regarding the requested action to be taken and the materials to be considered. Participation by other employees or members of the community at Oneida Business Committee meetings is allowed. Members of the community may ask questions, provide input, or request considerations be made on a particular agenda topic.

Responsiveness is also maintained, as departments have the opportunity to consider the input or questions that are received during the Oneida Business Committee meeting and provide responses directly back during the meeting. That being said, arguably, the process contained within the Administrative Rulemaking law does provide greater transparency, participation, and responsiveness due to the public meeting and public comment review memorandum requirement. Therefore, it may not be accurate to say the approval of the Procurement Manual through the adoption of a resolution *violates* the Good Governance principles provided in resolution BC-09-25-19-D, but instead, it may be more accurate to say the approval of the Procurement Manual through the adoption of a resolution may not be as effective at promoting the Good Governance principles provided in resolution BC-09-25-19-D as adoption of the Procurement Manual as a rule under the Administrative Rulemaking law. But again, the effectiveness of promoting the Good Governance principles of transparency, participation, and responsiveness, needs to be weighed against the necessity of promoting the Good Governance principle of effectiveness and efficiency- which may be better supported by the adoption of the Procurement Manual through a resolution.

Ultimately, whether to require the Procurement Manual to be adopted as a rule developed in accordance with the Administrative Rulemaking law, or as a manual that is approved through the adoption of a resolution is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, so that the Purchasing Department develops a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation, that is approved by the Oneida Business Committee through adoption of a resolution
2. The Law should be revised so that the Purchasing Department develops a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation, that is developed as a rule in accordance with the Administrative Rulemaking law. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

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~~ Rule Handbook 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~~ Rule Handbook.

121.6-2. *Procurement* ~~Manual~~ Rule Handbook. The Purchasing Department ~~shall~~ is delegated rulemaking authority to in accordance with the Administrative Rulemaking law to develop a Procurement ~~Manual~~ Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation. ~~The Procurement, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.~~

LOC Consideration

Comment 9 – Fees and Charges:

121.6. Expenditures and Assets

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.

Lisa Liggins (written): Line 244 – This section could be interpreted that it’s an “all or nothing” approach to fees and charges. Either charge the “full cost” as defined in the is section, or offer fee waivers – no middle ground.

Response

The commenter provides that the way the section on fees and charges is drafted could lead to the interpretation that a program or service is only allowed to charge either the full cost of providing the service or program, or no cost by providing fee waivers.

To eliminate any potential confusion in the interpretation of this section of the Law the following revision is recommended:

121.6. Expenditures and Assets

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 **be issued to** cover **up to** 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.

LOC Consideration

Comment 10 – Obligated Future Expenditures:

121.6. Expenditures and Assets

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.

Lisa Liggins (written): Line 267 – As written, it appears that an entity, such as the DTS, can't enter into a long-term contract for technical support because they would be obligating future expenditures. I don't think this is the intent, but if so, who will be responsible to keep track and list all those contracts in the resolution? I assume this isn't the intent and suggest it be clarified.

Response

The commenter questions the clarity of the intent of section 121.6-5 of the Law regarding obligated future expenditures. This provision of the Law provides that 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. [1 O.C. 121.6-5].

When developing this provision of the Law, the Legislative Operating Committee collaborated with the Finance Administration and focused much of its discussion on large obligated future expenditures such as multi-year land acquisitions. The intent of this provision of the Law could be clarified. It is recommended that the Legislative Operating Committee work with the Finance Administration to clarify this provision of the Law so that its intent and applicability will be clear to the reader.

LOC Consideration

Comment 11 – Definition for Government Services and Enterprises:

121.6. Expenditures and Assets

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.

(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.

Lisa Liggins (written): Line 288 and 297 – “government services” and “enterprises” should be defined.

Response

The commenter requests that a definition for both “government services” and “enterprises” be included in the Law.

It is recommended that the Law be revised to include the following definitions:

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.

(h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit.

(o) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

LOC Consideration

Comment 12 – Unbudgeted Positions:

121.9. Employment and Labor Allocations

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.

Lisa Liggins (written): Line 390 – not clear if a new fully grant funded position would be allowable. It should be?

Response

The commenter questions whether the prohibition of unbudgeted positions that have not been provided for in the labor allocations list provided for in section 121.9-3 of the Law applies to fully grant funded positions, and states that it should not apply to fully grant funded positions.

As written, any position, including a fully grant funded position, which has not been specifically budgeted for and included in the Nation's labor allocation list shall be prohibited. [1 O.C. 121.9-3]. The Law does provide an exception to this prohibition. The Law allows the Oneida Business Committee to authorize an unbudgeted position which has not been identified in the Nation's labor allocation list for a fund unit. Therefore, a fund unit may seek authorization from the Oneida Business Committee for an unbudgeted fully granted funded position.

There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 13 – Notification of Law of Compliance to the General Tribal Council:

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.

Lisa Liggins (written): Line 468 – reporting this list doesn't have anything to do with enforcement and it should be deleted. This should be a personnel issue for the Executive Managers to handle. If the concern is that someone dropped the ball and a service wasn't included that should have been, then reporting the offender to GTC doesn't correct the situation. Another action may be needed here to get to the correction desired.

Response

The commenter requests that the provision requiring the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines, so that a list of those fund units can be included in the annual report to the General Tribal Council be removed from the Law as this does not enhance enforcement of the Law and should be a personnel issue handled by the executive managers.

The Legislative Operating Committee included the provision which requires the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council in an effort to increase accountability – not only accountability for compliance by the fund units, but also accountability by the executive managers to ensure they are properly enforcing the Law.

Whether to also include the requirement that the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, and it be required that the executive managers notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council
2. The Law should be revised so that the provision requiring the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council is removed from the Law. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

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.~~

LOC Consideration

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.

~~(e)~~ (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.⁺

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

~~(f)~~ (g) “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) Payments to notes payable to debt service, both principal and interest, and applicable service fees;
 - (2) Employee 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
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121.7. Grants
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121.10. Budget Contingency Planning
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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-__-__-__-__

From: [Lisa A. Liggins](#)
To: [LOC](#)
Subject: Public Comments - Budget Management and Control law amendments
Date: Thursday, February 3, 2022 12:02:37 AM

Referencing the clean copy which begins on page 39 of the Public Meeting packet:

- Line 74 – the list of BC Direct Reports/Executive Managers has changed many times in the past seven (7) years. Understanding that is definition states “including, but not limited to”, I suggest, instead, the law should require a resolution to define this group of positions. This would be provide greater flexibility and clarity.
- Line 82 – we know from experience, especially over the last two years, that including specific positions in laws can be a hinderance when there are changes (layoffs, budget cuts, re-organization, etc). I suggest making a more general statement about the department and its function. Or remove it entirely if my suggestion in line 189 is considered.
- Line 87 – In researching this term, there are a few variations of how this can be calculated. This appears to be a policy decision wrapped in the law. With a change in leadership or management, the could be a different approach. I suggest either a footnote or some other documentation as to how/why this particular version is being used. Or that it be removed from the law and defined by resolution so that it could be changed as needed.
- Line 184 – I’m glad to see the deadline removed from this section; it was in draft 1 from October 2021. Thank you.
- Line 189-190 – “The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.” I don’t believe that Finance should be submit any budgets on behalf of any fund unit, regardless of express permission from the OBC. My understanding from the budget meetings I’ve attended over the past 7 years, is that Finance is available to assist anyone that has questions, that there are resources available to the fund units. Still, Finance continues to have to enter budgets. I understand this would be a change. I suggest this line be deleted in its entirety and that there be a provision in the adopting resolution that requires notice to those areas that haven’t been submitting on their own budgets and that appropriate training be offered by Finance.
- Line 200 – Should there be a notice of decrease (i.e. program ended)?
- Line 213 – There was a time, not to long ago, when we couldn’t get quorum for GTC meetings. I don’t see a provision for what happens if that occurs.
- Line 235-243 – Per the Administrative Rulemaking law, a Rule is defined as “a set of requirements enacted by an authorized agency in order to implement, interpret and/or enforce a law of the Nation...” Based on how the Procurement Manual is used now and how it’s being referenced here, it is still a rule and should be treated as a such. Section 106.1-2. of the Administrative Rulemaking law states “It is the policy of the Nation to ensure there is an efficient, effective and democratic process for enacting and revising administrative rules, and that authorized agencies act in a responsible and consistent manner when enacting and revising administrative rules.” Removing the rulemaking process, limits transparency, I wholly disagree with the change and believe this change is contrary to BC Resolution # 09-25-19-D *Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources*.
- Line 244 – This section could be interpreted that it’s an “all or nothing” approach to fees and charges. Either charge the “full cost” as defined in the is section, or offer fee waivers – no middle ground.

- Line 267 – As written, it appears that an entity, such as the DTS, can't enter into a long term contract for technical support because they would be obligating future expenditures. I don't think this is the intent, but if so, who will be responsible to keep track and list all those contracts in the resolution? I assume this isn't the intent and suggest it be clarified.
- Line 288 and 297 – "government services" and "enterprises" should be defined.
- Line 390 – not clear if a new fully grant funded position would be allowable. It should be?
- Line 468 – reporting this list doesn't have anything to do with enforcement and it should be deleted. This should be a personnel issue for the Executive Managers to handle. If the concern is that someone dropped the ball and a service wasn't included that should have been, then reporting the offender to GTC doesn't correct the situation. Another action may be needed here to get to the correction desired.

Thank you for your consideration.

Lisa Liggins
Secretary
Oneida Business Committee



Legislative Operating Committee
February 16, 2022

Wellness Court Law

Submission Date: 12/20/17	Public Meeting: n/a
LOC Sponsor: Daniel Guzman King	Emergency Enacted: n/a

Summary: *This item was carried over from last term. The request to develop a Wellness Court law came from the Tribal Action Plan (TAP)- Laws and Policies Sub-Committee in December 2017. A Wellness Court brings together alcohol and drug treatment, community healing resources, and the tribal justice process by using a team approach to achieve the physical and spiritual healing of the individual participant, and to promote Native Nation building and the well-being of the community.*

10/7/20 LOC: Motion by Kirby Metoxen to add the Wellness Court Law to the Active Files List with Daniel Guzman King as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

11/18/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Joel Maxam, Tsyoslake House, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

11/19/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Joel Maxam, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

11/20/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Tsyoslake House, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court

Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

- 1/6/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Deborah Thundercloud, Mari Kriescher, Tsyoslake House, Wesley Martin, Gerald Hill, Kristal Hill, Rhiannon Metoxen, Bridget Mendolla-Cornelius, Chelsea Place. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to begin the development of the Nation's Wellness Court law by reviewing an initial draft based off of other Tribal Healing to Wellness Court laws to serve as an outline for discussion. The drafting attorney will schedule another work meeting to continue the review of the draft.
- 1/20/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. Layatalati Hill, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Tsyoslake House, Wesley Martin, Gerald Hill, Kristal Hill, Rhiannon Metoxen, Chelsea Place. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to continue review and discussion of the Wellness Court law draft.
- 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 discuss a plan for moving this item forward through the legislative process.
- 2/5/21:** *Work Meeting.* Present: Clorissa N. Santiago, Hon. Layatalati Hill, Hon. Patricia Hoeft, Simone Ninham. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide the Judiciary an opportunity to provide input on the development of the Wellness Court law.
- 3/2/21:** *Work Meeting.* Present: Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Deborah Thundercloud, Tsyoslake House, Wesley Martin, Gerald Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the various objectives for "TAP, Goal 4: Create and implement a comprehensive Justice System that includes a Wellness Court and a rehabilitative corrections system" and set a process for moving forward with work meetings.
- 3/16/21:** *Work Meeting.* Present: Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. John Powless, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Wesley Martin. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss potential eligibility requirements for the Wellness Court.
- 5/18/21:** *Work Meeting.* Present: Clorissa N. Santiago, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Robert Brown. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss Wellness Court phase considerations.
- 1/19/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristen Hooker, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting

was to review the updated and simplified draft of the Wellness Court law and determine the next steps for moving this legislative item forward.

1/27/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristen Hooker, Rhiannon Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review updated and simplified draft of the Wellness Court law with the larger group, as well receive an update from the Judiciary on the progress of the internal policies and procedures for the Wellness Court.

2/10/22: *Work Meeting.* Present: Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Joel Maxam, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the two issues identified in the last work meeting (closed court vs. open court, and court of record vs. not a court of record), as well as review and discuss some suggested revisions from the Judiciary.

Next Steps:

- Approve the draft of the Healing to Wellness Court law and direct that a legislative analysis be developed.

Title 8. Judiciary - Chapter 808
Oneida Language
Oneida Translation
HEALING TO WELLNESS COURT

808.1. Purpose and Policy
808.2. Adoption, Amendment, Repeal
808.3. Definitions

808.4. General
808.5. Healing to Wellness Court Procedures

808.1. Purpose and Policy

808.1-1. *Purpose.* The purpose of this law is to establish the Nation's Healing to Wellness Court to:

- (a) offer intensive case management, treatment, and court supervision to individuals who committed an offense directly or indirectly related to a substance abuse or addiction issue;
- (b) provide access to holistic, structured, and phased substance abuse treatment and rehabilitation services that incorporate culture, tradition, and Tsi Niyukwaliho tǎ (Our Ways);
- (c) create intragovernmental and intergovernmental collaborative teams to interact with each participant; and
- (d) encourage and support each participant in the goal of their recovery to lead lawful productive lives free of substance abuse and addiction.

808.1-2. *Policy.* It is the policy of the Nation to bring together community-healing resources with the Nation's justice system to work collaboratively with intragovernmental and intergovernmental partnerships to reduce the abuse of alcohol and other drugs and drug-related criminal activity affecting the Nation's community in an effort to promote life-long substance abuse recovery and the reintegration of participants into the Oneida community.

808.2. Adoption, Amendment, Repeal

808.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__.

808.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

808.2-3. 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.

808.2-4. 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.

808.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

808.3. Definitions

808.3-1. 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) "Court" means the Oneida Healing to Wellness Court, which is a division under the Trial Court that has the designated responsibility to oversee the Healing to Wellness Court program matters.

(b) "Court of competent jurisdiction" means a federal, state, or tribal court that has jurisdiction and authority to do a certain act or hear a certain dispute.

(c) “Healing to Wellness Court program” means a court-supervised evidence-based treatment program which promotes recover through a coordinated community-based response for individuals who abuse or are dependent on any controlled substance or alcohol.

(d) “Intragovernmental” means relating to or conducted within a government.

(e) “Intergovernmental” means relating to or conducted between two (2) or more governments.

(f) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

(g) “Nation” means the Oneida Nation.

(h) “Participant” means an individual who is admitted to the Healing to Wellness Court.

(i) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.

808.4. General

808.4-1. *Establishment.* The Healing to Wellness Court is hereby established as a division of the Trial Court.

(a) The Court shall have the authority to issue all orders necessary to ensure the safety, well-being, and rehabilitation of individuals who come within or consent to its jurisdiction.

(b) The Court shall have the power to implement all the duties, responsibilities, and remedies set out in this law, including the power to enforce subpoenas and orders of restriction, fines and orders of restitution, contempt, and other powers as appropriate.

808.4-2. *Jurisdiction.* The Court shall have jurisdiction over matters related to substance abuse and addiction and any matter arising under this law.

(a) *Concurrent Jurisdiction.* The Court shall have the authority to collaborate with courts of competent jurisdiction that exercise concurrent jurisdiction.

(b) The Court may enter into collaborative inter-jurisdictional agreements with other courts of competent jurisdiction, law enforcement agencies, and other service providers upon approval by the Oneida Business Committee.

808.4-3. *Healing to Wellness Court Team.* The Healing to Wellness Court program shall be administered by a Healing to Wellness Court Team. The Healing to Wellness Court Team is the group of professionals who are primarily responsible for overseeing the day-to-day operations of the Healing to Wellness Court program and administering the treatment and supervisory interventions.

(a) *Composition.* The Healing to Wellness Court Team shall be comprised of the following individuals:

(1) Trial Court Judge;

(2) Healing to Wellness Court Coordinator;

(3) Oneida Police Department Officer;

(4) Representative of Probation;

(5) Substance Abuse Treatment Provider;

(6) Representative of Oneida culture and heritage; and

(7) any other member to be determined by the Healing to Wellness Court Team.

(b) *Revisions to the Composition of the Healing to Wellness Court Team.* The composition of the Healing to Wellness Court Team may be revised as necessary as determined by the

Court. The Court shall provide notification of any revision to the composition of the Healing to Wellness Court Team to the Oneida Business Committee and General Manager.

808.5. Healing to Wellness Court Procedures

808.5-1. *Establishment of Policies and Procedures.* The Court shall establish policies and procedures governing the operation and implementation of the Healing to Wellness Court program. The policies and procedures of the Healing to Wellness Court program shall not affect substantive rights and shall not conflict with existing law or rules enacted or approved by the Oneida Business Committee or Oneida General Tribal Council unless otherwise provided for within this law.

808.5-2. Healing to Wellness Court Team meetings and hearings shall proceed pursuant to the policies and procedures adopted by the Court.

808.5-3. All Healing to Wellness Court Team meetings and hearings shall be closed to the public except for invited guests as allowed by HIPAA regulations.

808.5-4. The Court is strictly a non-adversarial forum.

808.5-5. The Court judge shall make all findings of facts relevant to each participant's case pursuant to the policies and procedures adopted by the Court.

808.5-6. *Exclusion from the Oneida Judiciary Rules of Evidence and Oneida Judiciary Rules of Civil Procedure.* The Oneida Judiciary Rules of Evidence as well as the Oneida Judiciary Rules of Civil Procedure shall not apply in any Court proceedings.

808.5-7. *Not a Court of Record.* The Court shall not be a court of record. Any information obtained, used, or disclosed by a member of the Healing to Wellness Court Team, including the participant, while the participant is under the jurisdiction of the Court shall not be used as evidence against the participant in any other proceeding in the Judiciary or any other court in any other jurisdiction. All Court records are privileged and confidential and shall not be disclosed except to the members of the Healing to Wellness Court Team.

(a) Confidential information may always be disclosed after the participant has signed a proper consent form, even if it is protected by Federal confidentiality regulations. The regulations also permit disclosure without a participant's consent in several situations, including medical emergencies, program evaluations and communications among program staff.

End.

Adopted – BC-__-__-__-__



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: _____
- 2) Contact Person(s): _____
 Dept: _____
 Phone Number: _____ Email: _____
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:

List any supporting materials included and submitted with the Agenda Request Form

- | | |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☐ No
 If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Please send this form and all supporting materials to:

LOC@oneidation.org
or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376

February 2022

February 2022

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March 2022

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 30	31	Feb 1	2 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 3:30pm Oneida Nation Law	3	4	5
6	7	8	9	10 1:30pm Healing to Wellness Court Law Work Meeting (Microsoft Teams Meeting) - Clorissa N.	11 10:30am Amendments to the Oneida Nation Law Enforcement Ordinance (Microsoft Teams)	12
13	14	15	16 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC	17	18	19
20	21	22	23	24 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	25	26
27	28	Mar 1	2	3	4	5