

Title 1. Government and Finances – Chapter 121

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We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy	121.7. Grants
121.2. Adoption, Amendment, Repeal	121.8. Debts
121.3. Definitions	121.9. Employment and Labor Allocations
121.4. Authority and Responsibilities	121.10. Budget Contingency Planning
121.5. Budget	121.11. Reporting
121.6. Expenditures and Assets	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 resolutions BC-05-11-22-B, and BC-04-22-26-A.

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 This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.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 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 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) demolition of an existing building or other structures;
 - (4) physical infrastructure; and
 - (5) similar expenditures with a cost of five thousand dollars (\$5,000) 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.
- (h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit or to break even.
- (i) “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.
- (j) “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.
- (k) “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.
- (l) “Fiscal year” means the one (1) year period each year from October 1st to September 30th.
- (m) “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.

(n) “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.

(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.

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

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

(r) “Nation” means the Oneida Nation.

(s) “Secretary” means the Oneida Nation Secretary, or their designee at their discretion.

(t) “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) 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) report to the Oneida Business Committee and/or Executive Managers any expenditures that do not follow budget guidelines or conform to the budget;

(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 one hundred thousand dollars (\$100,000) 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 Oneida Business Committee of any Executive Managers and/or 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 one hundred thousand dollars (\$100,000) 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 operational budget.
- (b) The budget shall align with any 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; and
- (b) The individual budgets of each fund unit.

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) *Financial Sovereignty Fund.* The Financial Sovereignty Fund account is used by the Nation to prevent default on debt and to sustain operations and grants during times of extreme financial distress.

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 no later than March 1st of each calendar year.
 - (1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

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

(b) *Annual Proposed Budgets.* The CFO shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer and 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 priorities.

(1) *Notification of Budget Increase 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.

(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 for a period of time not to exceed three (3) months, until such time as a budget is adopted by the General Tribal Council. If the General Tribal Council does not adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall adopt the Nation's budget.

(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 CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. 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. *Procurement Rule Handbook.* The Purchasing Department is delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop a Procurement Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation.

121.6-2. *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 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 Rule Handbook.

121.6-3. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* A fund unit shall not make an unbudgeted expenditure of two hundred and fifty thousand dollars (\$250,000) or more unless approval is granted by the Oneida Business Committee. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted expenditure. The Oneida Business Committee shall approve any unbudgeted expenditure through the adoption of a resolution 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.

121.6-4. *Obligated Future Expenditures.* Notwithstanding an approved multi-year contract, 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.

121.6-5. *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall carry over at the end of each fiscal year and remain available for use, 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.

121.6-6. *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.

121.6-7. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.7. Grants

121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any 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; and
 - (5) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

121.7-2. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated. To transition a position from grant funding to being funded through the Nation's budget, a manager shall follow the standard procedure for seeking the development and approval of a new position 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. *Acquisition of Debt.* Any debt underwritten by the Nation for ten million dollars (\$10,000,000) or more shall be noticed to the General Tribal Council at the next available meeting prior to the execution of the credit agreement encumbering all pledges of repayment.

- (a) If emergency circumstances exist which prevents the notice of the acquisition of debt to the General Tribal Council, the Oneida Business Committee may proceed with the acquisition of debt.
- (b) Prior to the acquisition of any debt, the Nation shall obtain an amortization schedule for the repayment of the debt.

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 the acceptable range as defined by low-risk debt financing options at the specific financial institution.
- (b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained at the acceptable range as defined by low-risk debt financing options at the specific financial institution.

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) 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. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted position. The Oneida Business Committee shall authorize the unbudgeted position through the adoption of a resolution.

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 or prepare for potential 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) cost optimization;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the CFO determines that the Nation is under extreme financial distress or may face extreme financial distress in the near future, the CFO shall inform the Oneida Business Committee, and the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Financial Sovereignty Fund Account.* The Oneida Business Committee shall maintain a Financial Sovereignty Fund account within the ownership investment report to be used to prevent default on debt and to sustain operations, including grant operations, during times of extreme financial distress. The Financial Sovereignty Fund account shall be a restricted fund.

(a) The Financial Sovereignty 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 Financial Sovereignty Fund account until the established level has been achieved.

(c) Funds in the Financial Sovereignty 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 any fund units of an elected entity 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-05-11-22-B
Emergency Amended – BC-10-26-22-D (Expired)
Amended – BC-04-22-26-A