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**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ First Nation**

**Draft Work Plan**

This draft Work Plan sets out the tasks necessary to develop a First Nation long-term capital borrowing law. This involves development of the long-term capital borrowing law and development of a project plan.

1. **Prerequisite for a Borrowing Law**

| **Task** | **Activities** | **Who** | **Timetable**  [estimated date expected] | **Comments** |
| --- | --- | --- | --- | --- |
| 1. Development of Financial Administration Law (FAL) | * FN to contact First Nations Financial Management Board (FNFMB) for information and processes for development of a Financial Administration Law. | * FN * FNFMB | * N/A | * First Nation must have enacted a Financial Administration Law under Section 9 of the Act which has been approved by the FNFMB. * The First Nations Financial Management Board has available on their website information for development of a FAL. [FNFMB Website](https://fnfmb.com/en) |
| 1. Obtain Financial Performance Certificate | * Contact FNFMB to obtain the Financial Performance Certificate (for first borrowing). * Contact FNFMB to obtain financial management system certificate before all subsequent borrowings | * FN * FMB | * N/A * For FMS certificate, within 36 months of obtaining FPC | * For more information on obtaining Financial Performance Certificate [Financial Performance Certificate](https://fnfmb.com/en/services/certify-first-nations/financial-performance-certification) * For more information on obtaining Financial Management System Certificate [Financial Management System Certificate](https://fnfmb.com/en/services/certify-first-nations/financial-management-system-certification) |
| 1. Apply to FNFA to become a borrowing member | * Contact FNFA for process and requirements to become a borrowing member. | * FN * FNFA |  |  |
| 1. Develop local revenue law | * If not taxing, contact FNTC to develop property taxation law, service tax or other local revenue law that will support borrowing. | * FN * FNTC |  |  |
| 1. Identify eligible capital project | * FN to identify capital project. | * FN |  | * *FNTC Standards Establishing Criteria for the Approval of Borrowing Laws* list permitted capital infrastructure projects |
| 1. Preliminary determination of borrowing capacity | * Review tax revenues and tax base to determine estimated borrowing capacity | * FN/FNFA/FNTC |  | * *FNTC Standards Establishing Criteria for the Approval of Borrowing Laws* set out how borrowing capacity is determined * Determination useful to see how much debt financing can be used for project |
| 1. Development of Borrowing Agreement Law (BAL) | * FN to contact FNTC for information and processes for development of a Borrowing Agreement Law. | * FN * FNTC |  |  |

1. **Development of First Nation Borrowing Law**

| **Task** | **Activities** | | **Who** | | **Timetable**  [estimated date expected] | | **Comments** | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1. Determine team for law implementation | * FN and FNTC identify their contact persons for law development. | | * FN * FNTC | | * Month 1 | |  | |
| 1. FN confirmation of legal counsel | * FN to confirm legal counsel for law development and send contact info to FNTC | | * FN | | * Month 1 | |  | |
| 1. Information sessions or consultation with taxpayers, members, or other interested parties | * FN develops presentation. FNTC can offer presentation templates and technical support. * FN to determine suitable date for presentation. | | * FN (FNTC) | | * Month 1 or after law developed and before notification. | | * Optional | |
| 1. Development of a Project Plan | | * Develop a project plan in support of the proposed borrowing law   + Contact FNTC for project plan template * With FNFA, determine borrowing amount required, term of borrowing, and necessary annual payments to FNFA * With FNTC, make a preliminary determination of borrowing room | | * FN * FNTC * FNFA | | 3 to 12 months | | * Project Plan must provide sufficient detail to demonstrate the project is for the development of capital infrastructure for the provisions of local service as set out in the [FNTC Standards Establishing Criteria for the Approval of a Borrowing Law](https://partii-partiii.fng.ca/fng-gpn-II-III/sfm/en/17716/1/document.do) , and must include:   + description of the nature of the project;   + description of how the project will serve and benefit the community;   + description of how the project meets the long-term infrastructure needs of the community;   + details how the project will be construction bonded;   + details respecting if project is providing new infrastructure, or to expand, improve or replace existing infrastructure;   + details respecting the proposed financing for the project;   + detailed estimate of the costs of constructing, operating and maintaining the infrastructure and of its eventual replacement. * Must be submitted to FNTC with final law |
| 1. Project Plan Report certified by registered professional | | * Registered professional certifies project plan includes required elements | | * FN / Registered Professional | |  | | * Must be attached to project plan submitted to FNTC with final law |
| 1. Development of Borrowing Law | * Obtain sample borrowing law from FNTC * 1st draft of Proposed Law * Prepare Certificate of Capital Liabilities and Calculation of Borrowing Capacity * FN review of FNTC comments and 2nd draft * Final Proposed Law submitted to Chief & Council * FN BCR approval of proposed law | | * FN (legal) FNTC * FN (legal) * FN/FNFA/FNTC * FN * FN (legal) * Chief & Council | | * Months 1-3 | | * Once FN legal is confirmed, drafting depends on pace of legal counsel (typically 2-3 months) * Law development grant may be available. | |
| 1. FMA Representation and Notification Period | * Preparation of notice. * Notice mailed or emailed to FNTC (FNTC Registrar) * Notice posted in a public place on reserve. * Notice published in the [*First Nations Gazette*](http://www.fng.ca) * The Project Plan available for viewing. * Distributing copy of the law when requested. * Sending copy of proposed law to FNTC. * Retaining any written representations made to FN concerning the law and representation process (includes emails). * If a public meeting is held, noting any oral representations made at a public meeting concerning the proposed law. | | * FN and FNTC * FN (legal) * FN | | * Months 3 - 4 | | * Law notification is a requirement under the [FNTC Standards Establishing Criteria for the Approval of a Borrowing Law](https://partii-partiii.fng.ca/fng-gpn-II-III/sfm/en/17716/1/document.do) * FNTC has developed a one-page sample notice. It describes the law and invites individuals to comment on the law. It also contains contact information and states where a copy of the Project Plan may be viewed. If the First Nation chooses to hold a public meeting, the notice would provide the date and location of the public meeting. * FNTC can provide a sample representation plan to facilitate representation and notification activities. * Notice period must start at least 30 days before making the law. | |
| 1. FN approval and Submission of Law (after representation period) | * Consideration of representations (if any). * Chief & Council approval of law. * Invitation of further representation to the FNTC (*if written representations are made*). * Confirmation letter that FMA requirements under s. 8 and FNTC standards have been met. * Submission of law and supporting documentation to FNTC Registrar.   + Project Plan   + Certification from registered professional regarding standing and insurance   + Certification from FN officer that project plan elements remain true and accurate   + Certification from FN officer that information in Certificate of Capital Liabilities and Calculation of Borrowing Capacity remains true and accurate | | * Chief & Council * Chief & Council * FN * FN * FN | | * Month 5 | | * FNTC has a sample letter to invite representations to FNTC. * FNTC has a sample submission letter. | |
| 1. FNTC Review and approval consideration | * Reviews law and further representations received, if any. * Approves if compliant with legislative framework. * Law comes into force the later of the day after FNTC approval, or date set by the First Nation. * FNTC must provide true copy of law and certificate under s. 32(2)(b) of FMA to FNFA | | * FNTC | | * If FN receives representations, FNTC must allow 15 days for further representations. | |  | |