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**Draft Work Plan for Long-term Refinancing Borrowing Law**

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

1. **Refinancing Borrowing Law - Prerequisites**

| **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 s.9 of the Act which has been approved by the FNFMB. * The First Nations Financial Management Board has information on the FAL (www.fnfmb.com) |
| 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. 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 debt to refinance | * FN to identify debt obligation | * FN |  | * Debt must have been originally incurred to provide (eligible) capital infrastructure to the reserve * Capital infrastructure must have been completed * [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)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 a Borrowing Law](https://partii-partiii.fng.ca/fng-gpn-II-III/sfm/en/17716/1/document.do) 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 Refinancing Borrowing Law**

| **Task** | **Activities** | **Who** | | **Timetable**  [estimated date expected] | | **Comments** | |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1. Determine team for law implementation | * FN identifies contact persons for law development. | * FN | | * 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. 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 | | Month 2 to 3 | | * The project plan must describe the completed project in sufficient detail to demonstrate that the project developed capital infrastructure for the provision of local services, 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:   + a brief description of the project, and the date the project was completed;   + details respecting the original financing of the project, the total outstanding capital debt obligations, and the proposed amount and time frame of the refinancing;   + a budget outlining the actual costs of constructing, operating and maintaining the infrastructure and of its eventual replacement.   + a fiscal forecast of revenues and expenditures over the next five (5) years, including the assumptions used in estimating future property tax revenues and growth in the assessment base. * Must be submitted to FNTC with final law |
| 1. Project Plan Confirmation completed by a First Nation officer and certified by an authorized FN signatory. | * FN confirms project plan includes required elements | | * FN Officer * FN authorized signatory l | | Month 3 | | * Must be completed before notification. * Must be attached to project plan submitted to FNTC with final law |
| 1. Development of Borrowing Law | * Obtain sample refinancing 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. 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 3-4 or after law developed and before notification. | | * **OPTIONAL** | |
| 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 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. | |  | |