



April 4, 2024

Attention: All First Nations in the Treaty Negotiations and Tripartite Reconciliation Process

Re: Audit of First Nation Negotiation Support Funding for the year ended March 31, 2024

We are writing to all First Nations regarding the upcoming audit of Negotiation Support Funding received for the year ended March 31, 2024.

As set out under Section 9.1 of the First Nation Negotiation Support Agreement, First Nations are required to deliver to the British Columbia Treaty Commission (“the Commission”) **before October 1, 2024**, audited financial statements for the fiscal year respecting the contribution payments received under the First Nation Negotiation Support Agreement, expenditures, and any unexpended funds from a previous First Nation Funding Agreement. The First Nation will also deliver an Independent Practitioner’s Reasonable Assurance Report on Compliance with sections 6.1, 6.2, 7.1, 9.3, and 9.4 of the agreement.

The October 1 due date has remained consistent over the years. This allows First Nations six months to complete the audit. The Commission will not grant requests for extensions of this date except under exceptional circumstances.

As set out under Section 9.4 of the First Nation Negotiation Support Agreement, the Commission requests that your First Nation, with the assistance of your auditor, provide the information requested in this letter to allow the Commission “*to be satisfied that the contribution payments were used to prepare for and carry out treaty negotiations with Canada and BC or to conduct activities to prepare for the implementation of a treaty, agreement, or other constructive arrangement under the Treaty Negotiations Framework in accordance with the budget.*”

Completion of the Independent Practitioner’s Reasonable Assurance Report on Compliance is a very important part in satisfying the Commission that the Negotiation Support Funding has, in fact, been expended for the purposes identified in the funding agreements. Please see Point 3 below for additional information.

It is equally important that the First Nation maintain an adequate system of financial controls to ensure that expenditure of Negotiation Support Funding is for treaty/tripartite reconciliation negotiations only. Preparing for and carrying out litigation with either Canada or BC is not an acceptable use of Negotiation Support Funding. We note that pursuing specific claims is not an acceptable use of Negotiation Support Funding, as there is a separate bilateral process for addressing specific claims, which would involve the First Nation and Canada. We further note that expenditure of Negotiation Support Funding must also be in accordance with the budget approved by the Commission and be for costs incurred in the fiscal year ended March 31, 2024. If the Negotiation Support Fund of a First Nation incurs a deficit in any year, it is the responsibility of the First Nation to ensure that other resources of the First Nation are available to cover the deficit. Our authorities do not allow the Commission to allocate Negotiation Support Funding to cover a deficit from a previous year.

Please ensure that these instructions are passed on to the other auditors who may be auditing the Negotiation Support Funding of member First Nation communities, which form part of the consolidated audited financial statements. It is important that all financial information contributing to the overall First Nation negotiation support funding audit meets the audit requirements. This will also avoid any unnecessary follow-up once the audit is complete.

We are enclosing sample statements and reports and we request that you instruct your auditor to follow this format. Please note that **a separate Statement of Financial Position for the Negotiation Support Fund is required**. It is also our expectation that, in accordance with standard auditing practices, your auditor will:

1. Review the relevant sections for maintaining a system of adequate financial controls to ensure that Negotiation Support Funding is spent only on expenditures as defined in the Agreement. This includes maintaining separate records and procedures, which conform to generally accepted accounting principles.

Please note that **the date of the First Nation Negotiation Support Agreement [and Amendment of Funding Amount Agreement(s), if applicable] must be referenced in the Independent Auditor's Report, Independent Practitioner's Reasonable Assurance Report on Compliance, and Notes to Financial Statements (Note 1)**. The date of First Nation Negotiation Support Agreement, including any Amendment of Funding Amount Agreement(s), refer to the 2023/2024 fiscal year unless the First Nation did not receive new funds in 2023/2024. The Commission can confirm the Agreement date(s), and the funding provided, directly to your auditor.

2. Provide a separate Statement of Financial Position for the Negotiation Support Fund.
3. Complete an Independent Practitioner's Reasonable Assurance Report on Compliance and the related schedule in addition to the Independent Auditor's Report. **We reiterate that these reports are to use the exact wording as provided in the sample statements, unless the reason to alter the wording is to report on non-compliance.**

Per Section 9.3 of the First Nation Negotiation Support Agreement, the auditor is to confirm that expenditures were compared to the final budget approved by the Commission and that either no material variances were found, or the **material variances are documented in an attached schedule with explanations for the variances**. The Commission is not concerned where expenditures are below budget, except as this may relate to expenditures exceeding budgeted amounts in other categories. Variances are considered material when they exceed the budgeted amount by the lesser of \$5,000 or five percent of the individual expense category.

4. Compare the final 2023/2024 budget submitted by the First Nation and approved by the Commission for Negotiation Support Funding with the actual expenditures and **document any significant variances**. The Commission will provide a copy of the final approved budget upon request. If a First Nation anticipates a notable change in the budget, the First Nation should submit a revised budget to the Commission for approval prior to the end of the fiscal year. This avoids unnecessary follow up.
5. Ensure that revenue includes only negotiation support contribution payments for the year. **Do not include interest income**. If any of your expenditures are reimbursed from other sources, the appropriate expenditure item is to be reduced accordingly, rather than including the reimbursement as revenue.
6. Understand that if a First Nation or central treaty office transfers or disburses Negotiation Support Funding to another department or member First Nation for treaty/tripartite reconciliation-related purposes, the First Nation or central office must ensure that a sub-budget for those funds, that is consistent with the final budget approved by the Commission, is approved by the First Nation or entity that directly receives Negotiation Support Funding. These expenditures must also be accounted for on the Statement of Receipts, Expenditures, and Deficit (Surplus).

7. Understand that if the First Nation or other entity that receives Negotiation Support Funding transfers or disburses Negotiation Support Funding to a member band or community (the other party), the expenditures by the other party related to these transfers or disbursements must be audited and in compliance with the Agreement. If these transfers are accounted for on the Statement of Receipts, Expenditures, and Deficit (Surplus) as a one-line item (for example: "Transferred to ABC Band \$100,000"), a separate Statement of Receipts, Expenditures, and Deficit (Surplus) and a separate Statement of Financial Position reporting on these funds by ABC Band is required. A separate Independent Auditor's Report and a separate Independent Practitioner's Reasonable Assurance Report on Compliance will also be required from ABC Band.
8. Ensure that transfers to other departments or programs for treaty/tripartite reconciliation-related services accounted for on the Statement of Receipts, Expenditures, and Deficit (Surplus) as a one-line item (for example "Transferred to other programs \$25,000") are described in a note to the Financial Statements.
9. Understand that repayable transfers or loans to other departments or entities (i.e. Due to/from Operating Funds, Accounts Receivable, etc.) are not acceptable **If such items do appear on the financial statements, please provide detailed explanations for the items in the Notes to the Financial Statements.**
10. Document the system of financial controls, which ensures that Negotiation Support Funding is expended only for treaty/tripartite reconciliation-related negotiations, in accordance with the budget approved by the Commission. Budgets are approved, and funding is provided only for one fiscal year at a time. Therefore, while under accounting rules, prepaid items are technically not expenditures in the current fiscal year, they clearly cannot be approved in an annual budget. With a prepaid item, the funds have already been disbursed to another entity, but the Commission has not given approval for the use of the funds. Small amounts of prepaid expenses such as postage or insurance should be shown as expenditures in the current year.
11. **Review invoices individually for legal and other professional and consulting fees to ensure that the services were for treaty/tripartite reconciliation negotiations only.** Where the invoice detail is inadequate, obtain third party confirmation of the amount that should be allocated to treaty/tripartite reconciliation negotiations. This is to ensure that proper cost allocation among funds has been performed and Negotiation Support Funding is not used to prepare for or participate in litigation or other non-approved matters, in accordance with Section 2.1 of the Agreement.
12. Confirm the reasonableness and document the basis for allocations or transfers of general expenses charged to treaty/tripartite reconciliation negotiations (for example: office salaries, rent, office overhead), and comment on them.
13. Confirm when expenses for travel, accommodations, and meals are fully charged to treaty/tripartite reconciliation negotiations that the purpose of the expense is 100%-related to such negotiations. If other business was conducted during the trip, confirm that the appropriate cost allocations have been made.
14. Identify, if any, significant internal control issues in the course of the audit and provide the Commission with a copy of the Management Letter issued to the First Nation's governing authority and the First Nation's response to the observations. If the Management letter has been combined with the post audit communications, this letter should be provided.

15. Review the minutes of Council or Board meetings relating to treaty/tripartite reconciliation negotiations.
16. Please note, if your First Nation is, or uses, an incorporated entity (society / non-profit corporation), we remind you that it is the responsibility of the First Nation (and the First Nation Association) to ensure that the incorporated entity is in full compliance with the B.C. Societies Act / Canada Not-for profit Corporations Act and the entity's internal bylaws and procedures. If you have not obtained a legal review of the incorporated entity's governance documents (such as the Constitution, bylaws, membership requirements and key policies) in the past five years, or if those documents have changed, it would be prudent to do so. The Commission is not able to investigate or verify each incorporated entity's compliance with these requirements and relies on the First Nation (and First Nation Association) to do so. Any failure or omission on the part of the First Nation or First Nation Association in this regard may result in liability for the First Nation and / or the First Nation Association and could disrupt the negotiation of treaty/tripartite reconciliation. We urge you to ensure that this does not occur.
17. Perform these audit procedures using an appropriate level of materiality, risk assessment and testing which should, in most cases, be different from that used in auditing other programs or the combined or consolidated financial statements of the First Nation.
18. Understand that the purpose of Negotiation Support Funding is not for building the asset base of the First Nation. Major capital purchases will not be approved in the submitted budgets. The Commission recommends that any essential, major capital purchases be made by the First Nation, and then the treaty/tripartite reconciliation office lease/rent the asset from the First Nation. However, the Commission can approve purchases of small capital assets that depreciate rapidly and require frequent replacement, such as computer equipment.
19. Note that **purchases of small capital assets are to be expended, and not capitalized.** Should the First Nation choose to record small capital purchases as assets, a separate reconciliation of expenditures will be required that includes small capital purchases as expenditures and excludes any amortization taken on the small capital purchases. A sample reconciliation is provided in the appendix to this letter.
20. Perform additional procedures to ensure the accounting for the source and use of all funding for treaty/tripartite reconciliation-related activities is correct. Concerns exist that other funding from Canada or BC (for example: Treaty Related Measures funding) may duplicate Negotiation Support Funding and used for the same purpose or activity. The auditor will need to confirm expenditures are not charged to Negotiation Support Funding as well as the other funding source. Auditors will need to perform all necessary procedures to ensure that expenditures are recorded in the appropriate account and that each expenditure is recorded only once. **Duplicate recording of expenditures is not allowed.**

We outline these specific procedures as they may be unique to an audit of Negotiation Support Funding. They are not intended as a minimum standard of audit work. Your auditor will use their professional judgment to determine the appropriate procedures to be performed to support their audit opinion.

The attached forms and guidelines are also available online at <https://bctreaty.ca/resources/funding/>. This path will take you to the *Sample Workplans & Budgets* models and *Audit Report Samples & Instructions*.

The First Nation's reporting relationship with Canada does not concern the Commission. However, the Commission believes there is no reason to disclose detailed treaty/tripartite reconciliation expenditures to Canada in the same format that such expenditures are disclosed to the Commission. We understand that the Minister of Crown-Indigenous Relations will accept the following sample presentation in a First Nation's consolidated financial statements, with respect to the schedule for treaty/tripartite reconciliation negotiations:

Revenue	\$ x
Expenditures	\$ y

Excess/Deficit of Revenue over Expenditures	\$ x-y

If you or your auditors have any questions regarding the above, please do not hesitate to contact the BC Treaty Funding Team directly.

With Respect,

BC Treaty Commission, Negotiation Support Funding

Enclosures