

FOND DU LAC RESERVATION BUSINESS COMMITTEE

BUDGETS AND EXPENDITURES
OF DIVISIONS AND ENTERPRISES

ORDINANCE #07/95, as amended

Adopted by Resolution #1348/95 of the Fond du Lac Reservation
Business Committee on October 12, 1995.

Amended by Resolution #1043/02 of the Fond du Lac Reservation
Business Committee on January 9, 2002.

Amended by Resolution #1159/02 of the Fond du Lac Reservation
Business Committee on April 25, 2002.

Amended by Resolution #1311/08 of the Fond du Lac Reservation
Business Committee on October 7, 2008.

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CHAPTER 1

AUTHORITY, PURPOSE AND INTERPRETATION

Section 101 Authority

This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as granted by Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, and as recognized under the laws of the United States of America.

Section 102 Findings and Purpose

The Reservation Business Committee finds that, in order to satisfy the requirements of budgetary and fiduciary accountability established under Article VI of the Minnesota Chippewa Tribe Constitution and the Bylaws of the Fond du Lac Band, FDL Ord. #01/64, there is a need to establish a procedural framework for the adoption of budgets and the authorization and accounting of expenditures by the directors and managers of the programs and enterprises of the Fond du Lac Band. Towards that purpose, the procedures established under this Ordinance shall be binding upon every Division Director and Enterprise Manager of the Fond du Lac Band.

Section 103 Reservation of Rights; Interpretation

Neither the provisions of this Ordinance nor any action in pursuit thereof shall operate as, or authorize, a waiver of the sovereign immunity of the Fond du Lac Band or as a consent to jurisdiction by any court or agency for any matter arising under law or equity. The provisions of this Ordinance shall be construed and implemented in a manner which is consistent with the laws and regulations of the Fond du Lac Band, with generally accepted principles of accounting, and with those laws and regulations of the United States which have been determined by the Reservation Business Committee to be specifically applicable to a program, enterprise or transaction.

CHAPTER 2

DEFINITIONS

The following definitions shall apply in the meanings and interpretation of the provisions of this Ordinance:

Section 201 "Capital Expenditure"

Acquisitions of, or improvements to, real property or plant.

Section 202 "Contracted Service"

Services which are provided by an independent contractor and performed under a contract whose performance requires an expenditure during a budget period, excluding entertainment contracts.

Section 203 "Cost of goods"

Articles which are purchased for resale.

Section 204 "Equipment"

Each article of furniture, fixtures or equipment which has a value of \$5000 or more and a minimum useful life of one year or more.

Section 205 "Gaming-Related Contract"

Any agreement for the purchase or procurement of materials, supplies, equipment or services which are unique to the operation of gaming, including materials, supplies, equipment, management or consultant services, contract security services, prize payout agreements or annuity contracts, and marketing or advertising services.

Section 206 "Reservation Business Committee"

The governing body of the Fond du Lac Band of Lake Superior Chippewa.

Section 207 "Service or Maintenance Contract"

A contract for the provision of maintenance or repair services whose performance requires an expenditure during a budget period.

Section 208 "Supplies"

Articles with a value of less than \$5000.

Section 209 "Tribal Corporate Board"

The Board of Directors of the Fond du Lac Development Corporation, Fond du Lac Management, Inc., and the Fond du Lac Heavy Equipment and Construction Company.

Section 210 "Voucher"

A purchase order or other written form for the purchase or lease of goods or services which is approved by the Reservation Business Committee or relevant tribal corporate board.

CHAPTER 3

DIVISION AND ENTERPRISE BUDGETS

Section 301 Budget Development

Each Division Director and Enterprise Manager shall develop a budget for each program, department or grant administered by that Division or Enterprise, consistent with standards established by the Reservation Business Committee and this Ordinance, and shall submit such budget for the approval of the Reservation Business Committee or relevant tribal corporate board. Each budget shall contain a specific description of each article of equipment, or category of supplies or service, to be purchased or procured during the budget period, and shall include the cost of each anticipated expenditure contemplated during the budget period. Each budget may include a miscellaneous or discretionary category for unanticipated expenditures, subject to the approval of the Reservation Business Committee or relevant tribal corporate board.

Section 302 Budget Approval

Budgets developed pursuant to section 301 shall be reviewed by the Fond du Lac Secretary/Treasurer, Comptroller and Finance Director, and delivered by the Division Director or Enterprise Manager to each member of the Reservation Business Committee or relevant tribal corporate board prior to presentation to that body. Budgets shall be presented to a duly-convened quorum of at least three (3) members of the Reservation Business Committee or relevant tribal corporate board. Each budget must be approved by a current resolution of the Reservation Business Committee or relevant tribal corporate board.

Section 303 Budget Administration

A Division Director or Enterprise Manager shall administer the budget in accordance with its terms, the provisions of this Ordinance and standard business judgment, and the Fond du Lac Comptroller shall provide monthly financial reports to the Division Director or Enterprise Manager, the Fond du Lac Executive Director, and to the Reservation Business Committee or relevant tribal corporate board. The monthly financial report of the Comptroller shall include relevant commentary on variances. In the administration of the budget, the Division Director or Enterprise Manager shall have the discretion to reallocate up to ten (10) percent of a specific line item, up to \$50,000, in satisfaction of the expenditures required under another specific line item in that

budget, except for capital expenditures or where prohibited under applicable regulations or grant terms. Any reallocation of line items must be promptly reported to the Comptroller.

Section 304 Budget Amendment

The following deviations from an approved budget shall be treated as an amendment to the budget and shall be subject to the approval requirements of Section 302:

- a. An increase of any specified line item of over 10 percent or in excess of \$50,000, whichever is less;
- b. Any capital expenditure which is not specifically listed in the approved budget; or
- c. Any increase in the total budget.

Section 305 Budget Review

The Fond du Lac Secretary/Treasurer and Comptroller shall review with the Division Director and Enterprise Manager the budget and expenditures of each Division or Enterprise on a quarterly basis. If the income or operating expenses of the Division or Enterprise vary by more than ten (10) percent from that projected in the budget during any quarter of the budget period, the Division Director or Enterprise Manager shall, with the advice of the Comptroller and Finance Manager, provide a written report explaining such deviation to the Reservation Business Committee or relevant tribal corporate board.

CHAPTER 4

PURCHASING AND PROCUREMENT PROCEDURES

Section 401 General Requirements

The following requirements shall apply to purchases and procurements by any Division or Enterprise:

- a. Capital expenditures or equipment purchases or leases. Capital expenditures or equipment purchases or leases must be specified within an approved budget, and procured through a contract in accordance with Section 402 of this Chapter and through a voucher which has been approved by the Fond du Lac Secretary/Treasurer or his designee.
- b. Supplies or Services. Supply or service purchases must be made within a specified category of an approved budget and procured through a voucher. All gaming-related supply or service purchases must be made through a contract in accordance with the requirements of the Fond du Lac Gaming Ordinance, FDL Ord. #09/93, the regulations and arrangements entered into thereunder, and Section 402 of this Ordinance.
- c. Cost of goods. Cost of goods purchases must be specified within an approved budget and procured through a voucher.

The Fond du Lac Comptroller shall review all vendor relationships for the purchase of (non-gaming related) supplies and cost of goods and shall determine on a case-by-case basis whether such relationship should be subject to a contract, e.g. for the purposes of securing price or supply terms, and the development of appropriate contracts shall be recommended to the Reservation Business Committee or the relevant tribal corporate board, and subject to the contract development and review requirements of Section 402 of this Chapter.

Section 402 Contract Development and Review Procedures

All contracts involving capital expenditures, equipment purchases or leases, contracted services or gaming-related supplies or services must be developed and reviewed in accordance with the following procedures:

- a. Division/Enterprise Need and Budgetary Assessment. The Division Director or Enterprise Manager shall first assess the need, cost and affordability of the products or

services contemplated by the contract, and determine whether such cost is allowed within the Department or Enterprise budget.

- b. Preliminary Approval From RBC or Tribal Corporate Board. If the purchase or procurement is not specifically part of an approved budget in accordance with Chapter 3 of this Ordinance, the Division Director or Enterprise Manager shall present the general proposal to the Reservation Business Committee or relevant tribal corporate board and receive tentative approval to begin the solicitation of bids or negotiation of the contract.
- c. Development of Solicitations. The Division Director or Enterprise Manager shall develop a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description shall not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth the minimum characteristics and standards to which it must conform if it is to satisfy the intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of the procurement. The specific features of the named brand which must be met by bidders shall be clearly stated.
- d. Solicitation of Bids or Proposals. The Division Director or Enterprise Manager shall obtain quotations in the following manner:
 - (1) Contracts over \$25,000. If the amount of the contract is estimated to exceed \$25,000, sealed bids shall be solicited by request for proposal. All bids so obtained shall be kept on file for a period of at least one year after receipt thereof. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.
 - (2) Contracts from \$10,000 to \$25,000. If the amount of the contract is estimated to exceed \$10,000 but not to exceed \$25,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or procurement when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

- (3) Contracts less than \$10,000. If the amount of the contract is estimated to be \$10,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the decisionmaking body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt.

The solicitations shall identify all requirements which the bidders must fulfill and all other factors which will be used in evaluating bids or proposals. All published advertisements for bids shall state: "This contract is subject to Indian preference bidding." Preference in the award of contracts shall be given to qualified Indian bidders, in accordance with the requirements of the Fond du Lac Indian Contract Preference Ordinance, FDL Ord. #05/84, and any successor or similar ordinances or laws of the Fond du Lac Band not otherwise inconsistent with the requirements of this Ordinance, provided that the proposed price of the duly qualified Indian bidder is no more than ten percent (10%) higher than the qualifying bid of the lowest non-Indian bidder.

- e. Internal Review Process. Once a proposal has been received and tentatively decided upon, the Division Director or Enterprise Manager initiates a "Contract Routing Verification Form" (the "Blue Sheet") designating the appropriate staff and consultants to be involved in the development, review and recommendation of that particular contract. This stage may involve a revision by staff of the contract proposed, or (whenever necessary) the generation of the contract document itself.
- f. Presentation to RBC or Tribal Corporate Board. If not already a specified part of a budget approved pursuant to Chapter 3 of this Ordinance, the contract and a resolution must be presented to the Reservation Business Committee or relevant tribal corporate board for approval. If already a part of an approved budget, presentation to the Reservation Business Committee or relevant tribal corporate board for approval is not necessary, but the contract must be executed by both the Chairman and the Secretary/Treasurer, unless and to the extent that such authority has expressly been delegated to the Division Director or Enterprise Manager by resolution as part of the budget approval process under Chapter 3 of this Ordinance.
- g. Circulation of the Executed Contract. Once executed, copies of the contract shall be forwarded to the vendor, and shall be disseminated, for filing, along with the authorizing resolution, to the Division Director or

Enterprise Manager, Comptroller, Finance and Legal Departments.

- h. Program Grants or Contracts. All federal or state program grants or contracts constitute contracts for the purposes of the review provisions of this section, and such review shall include the Fond du Lac Program Accounting Director.

Section 403 Title to Equipment; Leases to Programs

The title to any equipment procured with Band funds shall vest in the Fond du Lac Development Corporation. Where equipment is purchased for use by a particular program, a lease of said equipment shall be negotiated between the Fond du Lac Comptroller and the Division Director in accordance with applicable program requirements and depreciation schedules. Equipment leases shall be executed by the Fond du Lac Executive Director, on behalf of the Fond du Lac Development Corporation, and the Division Director of the subject program.