

# HUU-AY-AHT FIRST NATIONS



## ECONOMIC DEVELOPMENT POLICY REGULATION

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Provisions of the *Financial Administration Act, HFNA 2011*, relevant to the enactment of this regulation: section 71.

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## REGISTRY OF LAWS CERTIFICATION

I certify that the *Economic Development Policy Regulation* was passed by Executive Council on:

*April 1, 2011*

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Chief Councillor Robert Dennis Sr.

I certify that the *Economic Development Policy Regulation* is enacted as law on:

*April 1, 2011*

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Ta'yii Hawilth Derek Peters

I certify that the *Economic Development Policy Regulation* came into force on:

*April 1, 2011*

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Law Clerk Connie Waddell

## ECONOMIC DEVELOPMENT POLICY REGULATION

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#### **Definitions**

- 1 In this regulation:
  - “**business case**” means a written report providing the information set out in section 6 (5) to enable Executive Council to decide whether to approve an economic development project,
  - “**economic development project**” means a potential business enterprise, a business enterprise being developed and includes the process of deciding whether and how to get involved in a business enterprise, whether controlled or not controlled by government;
  - “**sustainable**” or “**sustainability**” means the potential for continued success over a long period of time.

#### **Application**

- 2 This regulation applies to
  - (a) economic development projects, and
  - (b) business enterprises in which government has an interest.

#### **Purpose**

- 3 The purpose of this regulation is to ensure that
  - (a) fully informed decisions are made about economic development projects, and
  - (b) Huu-ay-aht business enterprises are likely to be profitable and sustainable.

#### **Principles**

- 4 The following principles apply to economic development projects:
  - (a) decisions must be made based on solid business plans and rigorous business case analyses that demonstrate a reasonable expected return on investment;
  - (b) management must be capable of operating businesses on a day-to-day basis consistent with strategic direction from shareholders;

- (c) partnership arrangements may be considered if the resulting sharing of risk and return provides an increase in expected return and in long term sustainability, as compared to proceeding alone;
- (d) risks associated with economic development projects must be well understood and mitigated as much as possible;
- (e) accountability to shareholders must be maintained through regular periodic financial disclosure and reports comparing performance to objectives;
- (f) decisions must take into account limited resources and competing opportunities.

**Interest in land**

- 5** If the potential profitability or sustainability of an economic development project relies upon where it is located, the acquisition of an appropriate interest in land must be considered to be part of that economic development project.

**Project stages**

- 6** (1) An economic development project must go through the following sequential stages:
- (a) identification of the concept and determination of feasibility;
  - (b) development of a business case;
  - (c) approval in principle;
  - (d) development of a comprehensive business plan;
  - (e) approval to proceed;
  - (f) implementation of the business plan.
- (2) Executive Council may, by resolution,
- (a) identify an economic development project concept, and
  - (b) remove an economic development project concept from the list of identified economic development project concepts
- after reviewing a written report from the Economic Development Committee outlining the concept and assessing its feasibility.
- (3) The Economic Development Committee must maintain a list of economic development project concepts identified by Executive Council that have not
- (a) been removed from the list by resolution of Executive Council, or
  - (b) proceeded to the implementation of the business plan stage.
- (4) If Executive Council believes after reviewing a written report from the Economic Development Committee that
- (a) an economic development project concept on the list described in subsection (3) is the highest priority among currently listed concepts after considering limited resources and competing opportunities,
  - (b) the Huu-ay-aht Development Corporation has, either alone or with one or more business partners, the financial and managerial capacity to undertake the economic development project, and

- (c) the Huu-ay-aht Development Corporation has funds to cover the cost of developing a business case,  
Executive Council may, by resolution, direct that the Economic Development Committee prepare a business case for the economic development project concept.
- (5) A business case must include the following information:
  - (a) a description of the purpose of the economic development project, the goods and services to be offered and the potential locations of the business enterprise;
  - (b) an assessment of the market for the goods and services to be offered including volume of goods and services that could be supplied, the prices for those goods and services and the factors affecting volumes and prices;
  - (c) an estimate of the start-up costs of the business enterprise;
  - (d) an estimate of the operating costs of the business enterprise and the factors affecting those costs;
  - (e) an estimate of the capital required to establish and maintain sustainability of the business enterprise and the planned source of that capital, including, where appropriate, business partners;
  - (f) a description of the corporate structure to be used and the structure of ownership or other interests in the business enterprise;
  - (g) an estimate of the profit or loss of the business for the first 5 years, including projected financial statements and estimates of return on investment;
  - (h) an assessment of the risks facing the business enterprise and possible action that could be taken to mitigate those risks;
  - (i) a description of any other requirements necessary to begin or complete the economic development project such as the purchase, rezoning, leasing, surveying or registration of land, legislative implications or approval from another government;
  - (j) an assessment of the business enterprise as compared to other opportunities in terms of likely return on investment, risks and sustainability;
  - (k) a recommendation about whether or not to proceed.
- (6) Executive Council may, by resolution, approve an economic development project in principle if
  - (a) a business case has been completed,
  - (b) the Finance Committee has submitted a financial assessment of the economic development project to Executive Council after reviewing the business case, and
  - (c) the economic development project is the highest priority on the list of economic development project concepts after considering limited resources and competing opportunities.
- (7) After approval in principle has been given, the Economic Development Committee must prepare a comprehensive business plan that provides a detailed consideration of the steps to be taken in implementing the business plan and developing a profitable, sustainable business enterprise.

- (8) If one or more other parties are involved, including
- (a) business partners or others with an ownership or other interest in the business enterprise, or
  - (b) vendors connected with the purchase of a business enterprise or business assets
- the Economic Development Committee must, in developing the comprehensive business plan, undertake due diligence to ensure the parties have made full disclosure of the information needed to decide whether to proceed.
- (9) Executive Council may, by resolution, approve an economic development project for implementation based on a detailed business plan if
- (a) arrangements are in place to provide the business enterprise with sufficient capital, and
  - (b) the economic development project is the highest priority on the list of economic development project concepts after considering limited resources and competing opportunities.
- (10) The economic development project may be implemented by the Huu-ay-aht Development Corporation as soon as implementation approval is provided.
- (11) An economic development project approved by Executive Council under this section may be subject to conditions set out in the approving resolution .

#### **Monitoring and managing business enterprises**

- 7 (1) The Chief Executive Officer of the Huu-ay-aht Development Corporation is responsible for
- (a) management of all government controlled business enterprises,
  - (b) representation and promotion of government interests in business enterprises in which government has less than a controlling interest, and
  - (c) monitoring the performance of all business enterprises in which government has an interest.
- (2) Monitoring the performance of a business enterprise includes doing all of the following:
- (a) establishing and maintaining, in consultation with the business enterprise, an operational plan that includes measurable financial activity and human resource goals;
  - (b) receiving and reviewing periodic reports from the business enterprise that measure and compare performance with stated goals;
  - (c) directing or recommending that the business enterprise take any action the Chief Executive Officer considers appropriate in response to the information provided;
  - (d) reporting at least quarterly to the Economic Development Committee on the performance of the business enterprise and on any action directed by the Chief Executive Officer.

**Return on investment**

- 8** (1) The threshold for approving an economic development project is an expected return on investment over the first 5 years of at least 15% per year, with an expected return on investment of greater than 20% per year preferred.
- (2) A goal for return on investment of not less than 15% per year must be set under section 7 (2) (a) for each business enterprise in which government has an interest.

**Limitation on investment in business enterprise**

- 9** The total government investment in any business enterprise must not exceed \$15 million including indirect investment made by a settlement trust.

**Use of profits**

- 10** Profits earned by the Huu-ay-aht Development Corporation must be used as follows:
- (a) first, to pay any dividends required by the terms and conditions of shares or a shareholder agreement;
  - (b) second, retained by Huu-ay-aht Development Corporation to ensure there is sufficient capital available for the Huu-ay-aht Development Corporation and the business enterprises in which it has an interest to maintain sustainability;
  - (c) third, used by the Huu-ay-aht Development Corporation to undertake business activities required by a resolution of Executive Council;
  - (d) last, paid as an extraordinary dividend to government.

