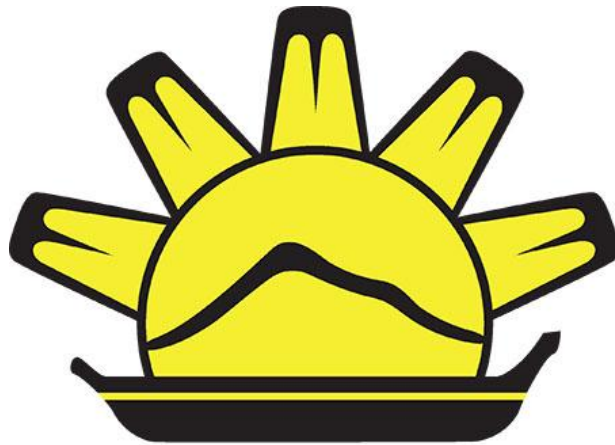


Statement of Policy and Procedure	
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Malahat Nation

Loans Receivable, Guarantees and Indemnities Policy

Approved by Council on Dec 6, 2016



Malahat

1. Policy

Malahat Nation will ensure that any loans receivable, loan guarantees and indemnities given will be made in accordance with written agreements which include standard clauses, are appropriately approved, are monitored for compliance with agreement terms regularly, and are reported to the Finance and Audit Committee on a regular basis. Any loans receivable entered into between Malahat Nation and a Malahat Nation member or an entity in which a member of Malahat Nation has an interest must be part of a loans receivable program approved by Council which is universally available to all members in a fair and transparent manner and in accordance with published terms and conditions which are accessible to all members.

2. Purpose

The purpose of this policy is to provide Malahat Nation with an effective and transparent process for the approval, collection and documentation of loans receivable, loan guarantees and indemnities given by Malahat Nation as authorized in its Financial Administration Law.

3. Scope

This policy and procedure applies to loans receivable, loan guarantees and/or indemnities entered into between Malahat Nation and:

- a Councillor;
- a Finance and Audit Committee member;
- an employee of Malahat Nation;
- a Malahat Nation member or entity in which a Malahat Nation member has an interest; and
- any other third party whether an individual or business entity including government business enterprises.

4. Definitions

“arrears” refers to an unpaid, overdue debt, or an unfulfilled obligation.

“loan guarantee” is a promise to pay all or a part of the principal and/or interest on a debt obligation in the event of default by the borrower.

“indemnity” refers to the right of a person to recover the amount of a financial loss or a liability to a third party.

“loan receivable” is a financial asset of Malahat Nation (as the lender) represented by a promise by a borrower to repay a specific amount, at a specified time or times, or on demand, usually with interest.

5. Responsibilities

- (1) Subject to the Financial Administration Law, Council is responsible for:
 - (a) Approving and signing loan receivable agreements as per Policy 1 Appendix A, Authorization and Delegation Table;
 - (b) Approving and signing loan guarantee agreements as per Policy 1 Appendix A, Authorization and Delegation Table;
 - (c) Approving and signing indemnity agreements as per Policy 1 Appendix A, Authorization and Delegation Table;
 - (d) Approving debt forgiveness as per Policy 1 Appendix A, Authorization and Delegation Table;
 - (e) Approving the standard template, clauses, and interest rates (if applicable) to be applied to all Malahat Nation members, any entity in which a member of Malahat Nation has an interest or any other party with respect to loans receivable, loan guarantees and indemnities;
 - (f) Reviewing the report of the Director of Finance and the Finance and Audit Committee for a lending program to members where such program is authorized in the Financial Administration Law and, where appropriate, approving such program.
- (2) The Finance and Audit Committee is responsible for:
 - (a) Monitoring the status of Malahat Nation's loans receivable, loan guarantees and indemnities and reporting to the Council;
- (3) The Chief Executive Officer is responsible for:
 - (a) Approving employee payroll and employee expense advances greater as per Policy 1 Appendix A , Authorization and Delegation Table;
 - (a) Ensuring the lending, loan guarantee and indemnity process is transparent by providing Malahat Nation members access to the requirements, standard terms and conditions;
 - (b) Ensuring the publication of the terms and conditions of any Council approved program of lending to members, providing access to the published program by all members and administering the program;
 - (c) Reviewing a report made by the Director of Finance respecting a lending program to members and making any recommendations to Council;
- (4) The Director of Finance is responsible for:
 - (a) Approving and signing loan agreements for amounts as per Policy 1 Appendix A Authorization and Delegation Table;

- (b) Ensuring that loan receivable allowances and loan receivable write-offs and loan forgiveness are reported to the Finance and Audit Committee and accurately recorded and disclosed in the financial records and statements;
- (c) Ensuring adequate supporting documentation is retained for all loans receivable, loan guarantees and indemnities;
- (d) On an annual basis, preparing a report for the Finance and Audit Committee setting out all payments made to honour Malahat Nation's loan guarantees and indemnities;
- (e) On an annual basis, preparing a report for the Finance and Audit Committee setting out all loans or obligations forgiven by Malahat Nation.
- (f) Monitoring the administration of any Council approved program of lending to members and any amendments thereof.

6. Procedures

Requirements

- (1) Subject to the Financial Administration Law, any authorized loans receivable issued by Malahat Nation are subject to the following conditions:
 - (a) Loans available to members must be set out in a program approved by the Council which has published terms and conditions and is universally available to all members;
 - (b) Loan guarantees will only be granted in the following circumstances:
 - i. Loan guarantees will be approved by Council and will be enacted by signing the agreement. The loan guarantee will only be granted if the risk of non-payment or non-fulfillment of an obligation is at an acceptable level for Malahat Nation.
 - ii. Malahat Nation will obtain a copy of the legal [asset purchase / lease] [investment] agreement requiring the issuance of a loan guarantee and retain on file with the loan guarantee agreement.
 - (c) In exceptional circumstances only, indemnities will be granted in the following:
 - i. Malahat Nation must not give an indemnity unless it is:
 - a. Authorized to do so under section [100] of the Financial Administration Law ("FAL");
 - ii. Malahat Nation will obtain a copy of the [asset agreement] under loan guarantee and retain on file with the loan guarantee agreement.
 - (d) Employees may request a payroll advance from Malahat Nation. Payroll advances will be approved by the Chief Executive Officer.
 - (e) Standard agreement clauses for loans, loan guarantees, and indemnities (including interest provisions) approved by Council as necessary. Any deviations from standard agreement clauses require Council approval.

Leases

- (1) Lease agreements respecting Malahat Nation must be made in accordance with the land code or applicable land management laws and policies.

Accessibility

- (1) Subject to the Financial Administration Law, all members must be able obtain a loan from Malahat Nation subject to any conditions outlined in this policy.
- (2) The Chief Executive Officer or delegate, will ensure that the requirements to obtain a loan, loan guarantee or indemnity, as well as the standard terms and conditions of these agreements are accessible to all Malahat Nations members.

Collection

- (1) The Director of Finance will review the list of outstanding loans receivable and corresponding loan payments. The following actions will be taken to resolve overdue payments and delinquent accounts:
- (2)
 - (a) For loan payments that are between 30 and 60 days overdue, the individual holding the loan will be contacted requesting that all overdue payments be made as soon as possible and no later than a specified date;
 - (b) For loan payments that are more than 60 days overdue, late payment interest will be charged on the outstanding loan balance in accordance with the loan agreement between the individual and Malahat Nation. For loan payments that are more than 120 days overdue, the Director of Finance will determine whether the loan should be considered impaired and written off or sent to an external collections agency. Any additional financing arrangements or amendments to existing loan agreements to improve the likelihood of repayment between Malahat Nation and an individual with payments in arrears will be determined by the Director of Finance and approved by the Chief Executive Officer.

Debt Forgiveness

- (1) The Chief Executive Officer has authority to approve a debt forgiveness based on the Director of Finance's recommendations as per Policy 1 Appendix A, Authorization and Delegation Table. Amounts over \$25,000 require approval by Council.

Write-offs

- (1) When all reasonable steps to collect have been taken and debt has not been collected or forgiven, the Director of Finance will ensure that the loan and its outstanding principal and interest payments are reclassified in the financial statements as bad debt.

Monitoring and Reporting

- (1) All loans, loan guarantees, and indemnities will be reported annually to the Finance and Audit Committee. The annual report will contain the following information for each loan, loan guarantee, and indemnity:
 - (a) Amount of the original loan, loan guarantee or indemnity;
 - (b) Repayments of principal on loans;
 - (c) List of payments in arrears by individual, subject to applicable privacy law;
 - (d) Any expected payments required as a result of Malahat Nation having to fulfill or honour a guarantee or indemnity agreement based on the Director of Finance's knowledge of the contracts in place and changes in their underlying financial condition.

Record Keeping

- (1) All agreements and payment records associated with loans, loan guarantees and indemnities will be stored in Malahat Nation's financial records in accordance with the [Records and Information Policy].
- (2) Records of debt forgiveness will be retained in the event that in future, through changed circumstances, some or all of the debt may be repaid.

7. References and Related Authorities

- (1) FMB's Financial Management System Standards
 - (a) Standard 19.2.1 Compliance with FAL
 - (b) Standard 19.2.2 Additional policies
 - (c) Standard 19.2.3 Policy content
 - (d) Standard 19.2.4 Records procedure
- (2) FMB's Financial Administration Law Standards
 - (a) Standard 17.2 Guarantees and indemnities
 - (b) Standard 17.4 Lending

8. Attachments

None