

**METIS SETTLEMENT GENERAL COUNCIL**

**FINANCIAL INTEREST POLICY**

*Policy GC-P9808  
Adopted December 17, 1998*

**PART 1 - CONTEXT**

**1.1 Background**

The *Metis Settlements Act* deals with situations where a matter before council may have a financial effect on a councillor. For example, it requires a settlement councillor with a financial interest in a matter before council to tell the council about the interest. It also says an agreement with a settlement may not be binding if a councillor has a financial interest in the agreement. To make clearer guidelines possible, a General Council Policy can define financial interest.<sup>1</sup>

**1.2 Purpose**

The purpose of this Policy is to define when a settlement councillor has a financial interest in a matter before council or in an agreement with a settlement.

**1.3 Definitions**

In this Policy,

- **Act** means the *Metis Settlements Act*;
- **councillor** means a member of a settlement council;
- **distributing corporation** means a corporation with more than 15 shareholders that has distributed shares, or securities that could become shares, to the public;
- **family member**, when used in connection with a councillor, means a spouse, father, mother, brother, sister, or child of the councillor;
- **non-profit organization** means
  - (i) a society, credit union or cooperative established under a law of Canada or Alberta,
  - (ii) a corporation that is prohibited from paying dividends to its members and distributing the assets to its members on a winding-up, or
  - (iii) any other entity established under a law of Canada or Alberta for a purpose other than to make a profit;
- **related person** of a councillor means
  - (i) a family member,
  - (ii) a corporation, other than a distributing corporation, of which the councillor or a family member is a shareholder, director or officer,
  - (iii) a distributing corporation in which the councillor or a family member beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the councillor or a family member is a director or officer,
  - (iv) a partnership or firm of which the councillor or a family member is a member, or
  - (v) an employer of the councillor or a family member.
- **spouse** of a person means an individual who is married to the person, or lives with the person as husband or wife outside marriage, and is not living apart from the person under a written separation agreement or court order;

and all other terms defined in the *Act*, or in regulations under it, have the same meaning when used in this Policy, unless the context makes such an interpretation unreasonable.

#### 1.4 Footnotes

Footnotes are part of the Policy included to help with interpretation.

### PART 2 - FINANCIAL INTEREST

#### 2.1 Basic rule

- (1) A councillor has a financial interest in a matter before council if he or she can reasonably be expected to know that a decision on the matter could have a financial effect on the councillor or a related person of the councillor.
- (2) A councillor has a financial interest in an agreement with a settlement if he or she can reasonably be expected to know that the agreement could have a financial effect on the councillor or a related person of the councillor.
- (3) Something has a financial effect on a person if it causes<sup>2</sup> the person to gain or lose money.

#### 2.2 Exemptions from the basic rule

- (1) A councillor does not have a financial interest by reason only of any interest
  - (a) that is held as a settlement member, utility customer or payer of taxes, levies or user fees charged by the settlement;
  - (b) that exists only because the council has appointed the councillor as
    - (i) a director or officer of a company incorporated for the purpose of carrying on business for the benefit of the settlement, or
    - (ii) a representative of the council on another body;
  - (c) that is related to an allowance, honorarium, remuneration, or other compensation or benefit that the councillor may be entitled to as a councillor or because of being appointed by council to a position described in clause (b)<sup>3</sup>;
  - (d) that is due to the councillor being employed by the Government of Canada, the Government of Alberta, a federal or provincial Crown corporation or agency, or the General Council, except with respect to a matter before council or an agreement with a settlement directly affecting the department, corporation or agency of which the councillor is an employee;
  - (e) that is due to the councillor being a member, director or officer of a non-profit organization or service club;
  - (f) that is due to the councillor being a member of an organization or committee from which the settlement council seeks advice on the construction or allocation of houses in the settlement area;
  - (g) that is due to the councillor being a member, director or officer of, or being remunerated as such by, a volunteer fire department or other voluntary organization or service existing for community betterment;

- (h) that is held in common with the majority of settlement members, or if the matter only affects part of the settlement area, with the majority of the members who live in that part;
  - (i) that is so remote or insignificant that it is unlikely to influence the councillor; or
  - (j) that is in a business that may be affected by a bylaw on businesses or business activities, and the matter is one of discussing or voting on the bylaw, unless the only business affected by the bylaw is the business of the councillor .
- (2) The exemptions in clauses (e),(f), and (g) in subsection (1) do not apply if the councillor is an employee of the organization, club, committee or service referred to in those clauses.
- (3) The exemptions for a councillor in subsection (1), and the exceptions to those exemptions in clauses (d) and (j), also apply to a related person of the councillor.

### PART 3 - GENERAL

#### 3.1 Appeals on Financial Interest

- (1) If a question arises as to whether or not a councillor has a financial interest in a matter before council or in an agreement with a settlement, any affected person may, with the permission of the Metis Settlements Appeal Tribunal, refer the issue to the Tribunal for determination.
- (2) A referral on a question of financial interest in a matter before council must be made within 60 days of the council meeting in which the matter is first raised, or in which a decision is made on the matter, whichever is later.
- (3) A referral on a question of financial interest in an agreement with a settlement must be made within 180 days of the signing of the agreement or the subsequent council approval of the signing, if any, whichever is later.

#### 3.2 Replacement of Previous Policy

This Policy rescinds and replaces General Council Policy GCP 920002.

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<sup>1</sup> For reference see sections 1(e.1) and 223(1)(d) of the *Metis Settlements Act* regarding *financial interest* generally, see sections 25(1)(o.1) and 39 regarding *financial interest in matters before council* and sections 25(1)(p.1) and 39.1 regarding *financial interest in agreements with a settlement*.

<sup>2</sup> The cause could be indirect as well as direct. For example, if someone owed a councillor money and the matter before council was whether that person should be given a job, the councillor could lose money if the person did not get the job and as a result could not pay back the councillor. That could mean the councillor has a financial interest in the decision. Note, however, the exemption provision in section 2.2(1)(i) that excludes situations where the interest is so remote or insignificant that it is unlikely to influence the councillor. This might be the case if, for example, the councillor was only owed a dollar. *These examples are for illustration only and do not exhaust all of the situations to which the provisions of the Policy may apply.*

<sup>3</sup> Note: For corporations incorporated under the *Business Corporations Act*, that *Act* provides that the directors of the corporation may fix the remuneration of its directors and officers and must disclose the remuneration as specified in regulations under that *Act*; the regulations currently require disclosure of remuneration to shareholders at every annual meeting or in the corporation's financial statements required under that *Act*.

**PART 4 - GENERAL**

**4.1 Transitional Provisions**

- (1) On coming into force this by-law repeals and supercedes all previous by-laws made by the settlement to the extent those by-laws apply to any of the activities to which this by-law applies.
- (2) On the coming into force of this by-law, all activities to which this by-law applies which are being carried out under previous by-laws of the settlement are continued with the same effect as if they were made under this by-law and are deemed to have fully met the requirements of this by-law except for any reporting required under subsection 2.2(3) after this by-law comes into force.

**SCHEDULE OF NON-COMMERCIAL ACTIVITIES**

The settlement will not be considered as engaging in a commercial activity just because it participates in the ownership, operation or provision of:

- (a) educational, cultural or recreational facilities;
  - (b) agricultural services such as clearing and breaking agricultural land, fencing and fencing materials, cleaning seed, and similar activities;
  - (c) a public utility;
  - (d) a public housing project or a housing corporation established to improve housing for settlement members; or
  - (e) a hospital;
  - (f) normal local government services.
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