

Title 1. Government and Finances - Chapter 108

INTERNAL AUDIT

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they count money – issues

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108.1. Purpose and Policy

108.1-1. *Purpose.* It is the purpose of this law to create a process by which internal audits are conducted upon the Nation’s entities and to delegate responsibilities for the purpose of conducting such audits.

108.1-2. *Policy.* It is the policy of the Nation to continually examine and assess the Nation’s entities by means of internal audit in order to enhance policies, procedures, and systems which are in place to ensure: the reliability and integrity of information; compliance with policies, laws, regulations and directives; the safeguarding of assets; and the efficient use of resources.

108.2. Adoption, Amendment, Repeal

108.2-1. This law was adopted by the Oneida Business Committee by resolution BC-7-15-98-C and amended by BC-08-09-17-B.

108.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Counsel pursuant to the procedures set out in the Legislative Procedures Act.

108.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

108.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

108.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

108.3. Definitions

108.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Audit” means an internal, independent, objective assurance and consulting activity designed to add value and improve an organization's operations by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes and includes a review of the reliability and integrity of information; compliance with policies, laws, regulations and directives; the safeguarding of assets; and the use of resources.

(b) “Day” means business day of the Nation and excludes holidays observed by the Nation.

(c) “Entity” means any activity, function, operation, board, committee, commission, department, division or other grouping within the Nation which reports under the Nation’s Federal Identification Number (FIN).

(d) “Finding” means an indication that a problem does exist based on an audit and may include, but is not limited to, the criteria or basis for determining that the problem exists, a condition or situation that was observed, the effect or impact of the condition, and the root

cause of the problem to the extent that it is able to be determined.

(e) “Nation” means the Oneida Nation.

(f) “Reasonably related” means the condition of being directly or indirectly associated with a given issue or situation whether the relation be integral or incidental in nature.

(g) “Relevant information” means, but is not limited to, financial information and records, facilities, offices, people, equipment, inventories, tapes, activities, network servers, and files regardless of storage medium.

(h) “Tribal member” means an enrolled member of the Nation.

108.4. Audit Committee

108.4-1. *Audit Committee.* The Audit Committee, a standing committee of the Oneida Business Committee, shall oversee the internal audit process including but not limited to any and all investigation into complaints received alleging or suspecting improprieties and/or violations of the Nation’s policies, laws, rules and directives.

(a) The Audit Committee may not, under any circumstance, direct the audit of an individual Tribal member and/or employee.

(b) Except for gaming compliance audits, the Audit Committee shall include in all audit reports containing findings a set of follow-up recommendations highlighting opportunities for improvement.

108.4-2. *Enforcement.* The Audit Committee is hereby granted authority to utilize all existing enforcement mechanisms, including those provided in this law, to carry out its responsibilities.

108.4-3. *Mandatory Attendance at Audit Committee Meeting(s).* The Audit Committee may require management representation, through the appropriate chain of authority, to appear at Audit Committee meetings as necessary.

108.5. Internal Audit Department

108.5-1. *Internal Audit Department.* The Internal Audit Department operates under the oversight of the Audit Committee and shall conduct audits at the direction of the Audit Committee, provided that once a confidential schedule of sporadic entity audits is approved by the Audit Committee, further approval from the Audit Committee is not required.

108.5-2. *General.* The Internal Audit Department shall work with entities to obtain information reasonably related to the purpose of the audit directed by the Audit Committee. The scope of their research and investigation shall be unrestricted, provided that employees of the internal audit department shall:

(a) Refrain from participating, in any way, in any audit of an activity over which he or she has related authorities and/or responsibilities;

(b) Adhere to the Institute of Internal Auditors Code of Ethics and Statement of Responsibilities of Internal Auditing; and

(c) Strictly maintain the utmost confidentiality in all aspects of the audit process, including but not limited to confidentiality of information obtained during an audit and audit results and recommendations.

108.5-3. *Audit.* Any revision to the audit objectives named by the Audit Committee pursuant to section 108.6-2 deemed necessary after commencement of the audit shall be approved by the Internal Audit Department’s management prior to initiating any change in the audit objective and noticed to the Audit Committee.

108.5-4. *Records.* The Internal Audit Department shall maintain all information collected or

derived from an audit. Upon closure of an audit, all documentation shall be retained in a secure location in accordance with the laws of the Nation.

108.6. Audit Process

108.6-1. *Initiating an Audit.* The Audit Committee may direct the Internal Audit Department to initiate, provided that the direction shall be based on one (1) or more of the following:

- (a) The confidential schedule of sporadic entity audits approved by the Audit Committee;
- (b) An entity's request for an audit of its practices;
- (c) An audit is required by policy, law, rule and/or directive;
- (d) An audit is directed by the Oneida Business Committee; and/or
- (e) An audit is requested by a Tribal member.

(1) Where an audit is requested by a Tribal member, the Audit Committee shall consider the basis of the request. If the Audit Committee finds no valid concerns as provided in section 108.6-2, it shall deny the audit request.

(2) Regardless of whether the audit request is granted, the Audit Committee shall provide written notice to the Tribal member indicating whether the audit request has been granted or denied, in whole or in part.

108.6-2. *Focus of the Audit.* When directing the Internal Audit Department to begin any audit, the Audit Committee shall direct the audit focus on concerns related to one (1) or more of the following:

- (a) Reliability and integrity of information;
- (b) Noncompliance with policies, laws, rules and/or directives;
- (c) Safeguarding of assets;
- (d) Use of resources;
- (e) Financial performance;
- (f) Fraudulent or dishonest activities;
- (g) Follow-up related to a previous audit report;
- (h) General assessment of an entity; and/or
- (i) New or final status of an entity.

108.6-3. *Information Gathering.* The Internal Audit Department shall begin information gathering by issuing the entity being audited a written request for information.

(a) The Internal Audit Department shall include the following in its request for information:

- (1) A request for relevant information needed to complete the audit;
- (2) Notice of the time requirements for response, including the deadline for requesting an extension;
- (3) Notice that failure to provide requested information and cooperate with the Internal Audit Department may lead to corrective action from the Oneida Business Committee in accordance with 108.7-2; and
- (4) Notice that the entity may request a consultation with the Internal Audit Department as part of the information gathering process.

(b) Unless granted an extension, an entity receiving a written request shall respond and submit the information identified in the request within the timeframe provided to the entity in the written request.

(1) Entities may submit a written request for an extension allowing more time to respond to a written request for information provided that a requesting entity shall submit the request to the Internal Audit Department within seven (7) days of the date of the written request for information and shall identify in detail the reason(s) an

extension is needed.

(2) Within three (3) days of receipt of a request for an extension, the Internal Audit Department shall respond either denying or granting, in whole or in part, the extension. If the request is granted, the response shall identify the new deadline for submitting the requested information.

108.6-4. *Continual Access to Information.* After the entity's initial response to the Internal Audit Department's request for information, the entity remains responsible for providing the Internal Audit Department with continual access to information and shall timely respond to all requests for additional information.

108.6-5. *Access to Facilities and Premises.* Entities subject to an audit shall allow Internal Audit Department staff to enter all facilities and premises of the Nation as the Internal Audit Department deems necessary to conduct the audit.

108.6-6. *Management Response.* Once a draft audit report has been issued to an entity, the entity shall provide a management response within the timeframe provided in the draft audit report.

(a) *Management Response Content.* Management shall include the following in its response:

(1) Any concerns the entity may have related to an audit finding, provided that, entities highlighting concerns may:

(A) Request a preliminary consultation with the Internal Audit Department to further discuss the contents of the draft audit report prior to finalization of the audit report; and

(B) If there are remaining concerns following the preliminary consultation, request a consultation with the Audit Committee to discuss remaining concerns regarding the contents of the draft audit report prior to its finalization;

(2) Management's plan to address, remedy or resolve issues discovered as part of an audit finding;

(3) The title of the person(s) responsible for implementing management's plan; and

(4) A specific timeline for completion of management's plan.

(b) *Audit Committee Consultation.* When an entity is granted an Audit Committee consultation, the Audit Committee shall take any combination of the following actions:

(1) Excuse the entity from providing a remedy in its management response to any draft audit report findings which the Audit Committee deems unfounded or for which remedy is not feasible based on the totality of the circumstances;

(2) Direct the Internal Audit Department to conduct additional information gathering and/or consultation with the entity and to report back to the Audit Committee upon completion; and/or

(3) Notice the entity that the Audit Committee concurs with the draft audit report findings and direct full compliance with the requirements of section 108.6-6(a)(2).

108.6-7. *Audit Report Finalization.* The final audit report shall include all findings as well as any required entity follow-up and/or further scheduled auditing. Any findings modified, removed and/or excused based on the consultation between the Audit Committee and the entity shall remain noted in the final audit report with notes indicating the action taken by the Audit Committee. Once the Audit Committee has reviewed the management response and approved the final audit report, the approved final audit report is forwarded to the Oneida Business Committee for acceptance. The Oneida Business Committee shall include in its acceptance notice that the audit report is released for Tribal

member viewing in whole following redaction as determined to be necessary by the Oneida Law Office.

108.7. Compliance and Enforcement

108.7-1. *General.* Any entity and/or management found violating this law is subject to corrective action in accordance with the Nation's policies, laws and rules, including as specifically provided in section 108.7-2 of this law.

108.7-2. *Noncompliance with the Audit Process.* Where an entity fails to comply with the internal audit process pursuant to section 108.6 or where the Internal Audit Department has belief or knowledge that an entity has violated this law, the Internal Audit Department shall send a report to the Audit Committee including recommended actions.

(a) In the event of noncompliance with a written request and/or this law, the Audit Committee may request the matter be placed on an Oneida Business Committee meeting agenda as part of executive session and may direct the management and any other appropriate parties involved to appear at that meeting.

(b) If the Oneida Business Committee determines that an entity has failed to respond to a valid written request and/or is otherwise not in compliance with this law, the Oneida Business Committee shall direct the entity to submit any relevant information and/or take such corrective action as is necessary to enforce compliance and/or to prevent future noncompliance, including but not limited to:

(1) In consultation with the Oneida Law Office, reporting illegal activity to the proper law enforcement authorities;

(2) Directing the appropriate corrective action, which may include discipline of the management staff or other responsible employee(s) for the failure to comply with the Nation's policies, laws and rules in accordance with the Nation's employment practices;

(3) Where a board, committee or commission is noncompliant, taking steps to terminate or remove a board, committee or commission member(s) pursuant to the Nation's applicable laws; and/or

(4) Restricting an internal entity's budget funding.

108.7-3. *Investigations.* Should the Internal Audit Department suspect an entity has conducted illegal activity, it shall immediately halt audit proceedings and report the suspicion to the Audit Committee. Upon the Audit Committee's direction, the Internal Audit Department shall assist external parties, which may include, but are not limited to, law enforcement agencies and private investigators, in conducting any investigation directed by the Audit Committee. Investigatory actions and assistance may be carried out by the Internal Audit Department, provided that all direction and decisions related to any investigation are the Audit Committee's sole discretion.

108.7-4. *External Communications.* Prior to communicating any information related to an audit to an external entity, including but not limited to law enforcement agencies, the Internal Audit Department shall receive approval from the Audit Committee.

108.8. Access to Internal and External Audits

108.8-1. *Access Requests Limited to Tribal Members.* Only Tribal members may request access to internal and/or external audits reports, provided that audit reports may not under any circumstances be provided in a General Tribal Council agenda packet.

(a) Prior to granting access, the custodian of the audit report shall require:

- (1) Verification of Tribal member status by means of a Tribal member identification card; and
- (2) The Tribal member sign and print their full name on the applicable audit report access log.

(b) Custodians of audit reports shall limit access to on-site review and shall deny permission to print and/or make copies of audit reports.

108.8-2. *Internal Audit Reports.* Requests for internal audit reports shall be submitted to the Internal Audit Department. To protect the integrity of the audit process, the Internal Audit Department shall keep all information related to an incomplete audit, including audit progress, strictly confidential until the audit report has been approved by the Oneida Business Committee and released for Tribal member viewing. The Audit Committee may provide progress updates related to incomplete audits to the Oneida Business Committee upon request, provided that any such update shall be conducted in executive session.

108.8-3. *External Audit Reports.* All external annual audit reports, including those of a vendor, consultant or other party organized outside of the Nation's Federal Identification Number (FIN) may be made available for Tribal member viewing directly with the audited entity. Requests for the annual financial audit of the Nation shall be submitted to the responsible custodian located at any of the following locations:

- (a) The Oneida Community Library;
- (b) The Office of the Nation's Treasurer;
- (c) The Finance Department; and/or
- (d) The Oneida Business Committee Records Management Office(s).

End.

Adopted - BC-7-15-98-C
Emergency Amendment – BC-5-12-99-C (expired)
Emergency Amendment – BC-6-9-99-C (expired)
Amended – BC-08-09-17-B