



## Little River Band of Ottawa Indians

375 River Street  
Manistee, MI 49660  
(231) 723-8288

### Resolution # 05-0720-327

#### *Permanent Adoption of the Audit Reform Act of 2005*

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council is vested with the authority to employ legal counsel on behalf of the Tribe and took emergency action on March 16, 2005 to adopt the Audit Reform Act of 2005 to address the assignment of legal counsel to the Tribal Council and the Office of the Ogema; and

WHEREAS, the proposed ordinance was posted for Public Comment which was concluded in April 2005 - Public Comment and two comments were received, as well as two informal submissions; and

WHEREAS, the Tribal Council has reviewed the comments and made final revisions at a final work session on July 15, 2005 and approved the final version for permanent adoption;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby permanently adopt the Audit Reform Act of 2005 for immediate implementation.

**CERTIFICATE OF ADOPTION**

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 0 AGAINST, 1 ABSTAINING, 0 ABSENT, and 1 VACANT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on July 20, 2005, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



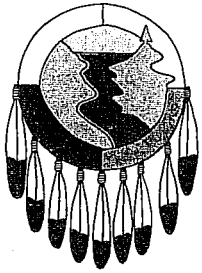
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Janine M. Sam, Council Recorder



\_\_\_\_\_  
Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records  
Tribal Ogema  
Tribal Court



# LITTLE RIVER BAND OF OTTAWA INDIANS

375 River Street  
Manistee, MI 49660  
(231) 723-8288  
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## Audit Reform Act of 2005

### Legislative Summary

#### *Ordinance History*

The Tribal Council adopted the original Audit Ordinance in 2003 to clarify responsibilities for conducting external audits of the Tribe, and to begin the development of internal auditing procedures. This ordinance as presented will clarify responsibilities and offices regarding auditing, review and investigations in a manner which more accurately reflects the checks and balances within the Tribe's government.

#### *Purpose of Ordinance*

This ordinance creates two offices - Government Business and Accounting Office, reporting to Tribal Council, and the Internal Audit Department reporting to the Ogema. The Tribal Council has identified that the checks and balances within the Tribal organization require separation of responsibilities in order to avoid both implementation and review being conducted by the same offices. As a result, the Tribal Council has determined the following responsibilities.

#### Ogema

Develop Budget

Implement Budget and Ordinances

Internal Audits of Actions

#### Tribal Council

Adopt Budget

Adopt Ordinances and Review Implementation

External Audits of Actions

The Audit Reform Act of 2005 will move auditing and review activities to the appropriate offices. It should be noted that there is also a Tribal Council Budget Office also created by this ordinance. The responsibilities of this second office will be conducted by the Government Business and Accounting Office until such time as a separate is necessary based on increased work load.

The Internal Audit Department will take up the responsibility of the internal auditing of the programs and activities of the Tribe formerly conducted by the Comptroller General. The Government Business and Accounting Office will refocus its responsibility to information gathering and reporting as directed by Tribal Council to assist in review, development, amendment, etc., of existing laws and regulations of the Tribe.

The individual member should feel no immediate impact as a result of this ordinance, and this ordinance creates no additional responsibilities for the member. However, programs and departments will note that the Internal Audit Department is now auditing and reporting directly to the Ogema, and investigations are being conducted and reporting directly to the Tribal Council. There should be little overlap as the audit schedule is reported to the Tribal Council which can then schedule investigations to avoid conflicts.

This Legislative Summary is provided to identify highlights and purpose of the proposed Ordinance. Individuals are encouraged to read the complete ordinance, and must refer to the ordinance for official action or direction.

July 18, 2005

**AUDIT REFORM ACT OF 2005**  
Ordinance # 05-100-06

**Article I. Purpose; Findings**

1.01. *Purpose.*

a. To establish a Legislative Government and Business Accounting Office, a Tribal Council Budget Office, an Executive Internal Audit Department, and to set the minimum external audit requirements for the government and businesses of the Tribe.

b. The purpose of this Act is to establish the Government and Business Accounting Office, establish the Tribal Council Budget Office, establish the Internal Audit Department, set the minimum external audit requirements, set the requirements for reporting audit information to the Ogema and Tribal Council, and set the procedures for addressing deficiencies and audit findings.

1.02. *Findings.* The Tribal Council finds:

a. The government and businesses of the Little River Band of Ottawa Indians are complex, sophisticated operations generating significant revenue and employing hundreds of people; and,

b. The Constitution of the Little River Band of Ottawa Indians separates the functions of government into three distinct responsibilities with the Tribal Council possessing legislative powers, the Ogema possessing executive powers, and the Courts possessing judicial powers; and,

c. The legislative and executive responsibilities of government each need an office and employees whose primary function will be to safeguard the assets of the Tribe, and monitor compliance with the Annual Budget and financial laws, policies, and procedures of the Tribe; and,

d. The Tribal Council has determined that it is in the best interests of the Tribe to establish a Government and Business Accounting Office in the Legislative branch of government as a legislative function, a Tribal Council Budget Office in the Legislative branch of government as a legislative function, an Internal Audit Department as an executive function, and to set the minimum internal and external audit requirements for the government and businesses of the Tribe.

e. That accountability regarding the allocation, use and care of Tribal funds and assets is an important governmental function of the Tribal Council as a result of on the functions and authorities granted under the Constitution and Tribal laws. These funds and assets must be managed by the Tribal Council in a clear, consistent and understandable manner.

f. That the Ogema must identify and manage accountability for Tribal funds and assets in accordance with Tribal laws, resolutions and motions adopted by the Tribal Council as directed by the Constitution.

**Article II. Adoption; Amendment; Repeal; Severability**

2.01. *Adoption.* This Ordinance was adopted by emergency action of the Tribal Council by resolution # 05-0316-113.

a. The permanent adoption of this ordinance by Tribal Council resolution # \_\_\_\_\_.

2.02. *Amendment.* This Ordinance may be amended in accordance with the procedures set forth in the Administrative Procedures Act - Ordinances.

2.03. *Repeal.* This Ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act - Ordinances.

2.04. *Severability.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

2.05. *Title.* This Ordinance shall be referred to as the "Audit Reform Act of 2005".

2.06. *No Impairment.* Nothing in this Act shall be deemed to authorize the impairment of an existing contract.

### **Article III. Definitions**

- 3.01. *General.* As used in this Ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings.
- 3.02. *Audit* means to provide independent, objective assurance and consulting services designed to add value and improve an organization's operations. The internal audit activity helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.
- 3.03. *Corporations*, as used in this Ordinance, means businesses which are owned by the Tribe and in which the organizational documents require submission of financial reports and audit reports.
- 3.04. *Grant*, as used in this Ordinance, means P. L. 93-638 contracts, and grants issued by an external agency.
- 3.05. *Major grant activity* means those grants which fund 50% or more of a program budget.
- 3.06. *Generally Accepted Auditing Practices* means the standards published by the American Institute of Certified Public Accountants, Institute of Internal Auditors, United States Office of Management and Budget, and other regulatory bodies that publish auditing standards applicable to grants administered by the Tribe.

### **Article IV. Government and Business Accounting Office**

- 4.01. *Creation of the Government and Business Accounting Office.*
- a. The Tribal Council hereby creates and establishes the Government and Business Accounting Office as a legislative office to assist in carrying out legislative responsibilities.
  - b. The Government Business and Accounting Office shall be under the exclusive authority and supervision of the Tribal Council.
- 4.02. *Comptroller General.*
- a. The director of the Government Business and Accounting Office shall be called the Comptroller General. The Comptroller General shall be hired by the Tribal Council and shall be employed at the discretion of the Tribal Council.
  - b. Employees working in the Government Business and Accounting Office shall be under the supervision of the Comptroller General.
  - c. The Comptroller General shall be a certified public accountant and shall possess, and maintain during the course of employment, a valid certified public accountant license, permit or certification from a State. Failure to maintain a certification during the course of employment shall result in immediate termination.
- 4.03. *Duties.*
- a. The Government Business and Accounting Office shall serve as the investigative arm of the Tribal Council and shall assist the Tribal Council in its constitutional responsibilities including oversight of the departments and businesses of the Tribe, establishing policies and laws, and authorizing and appropriating funds.
  - b. The Government Business and Accounting Office shall study and evaluate the programs, expenditures, and audits of the government and businesses of the Tribe and shall advise the Tribal Council on methods to make the government more efficient, effective, and responsive to the needs of the members of the Tribe.
  - c. The Government Business and Accounting Office shall be required proscribe additional auditing standards and financial practices to be presented for approval by the Tribal Council. Such standards shall be maintained in a organized manner and available upon request.
  - d. The Comptroller General shall prepare a proposed annual budget for the Government Business and Accounting Office and shall present such budget to the Tribal Council for review and approval in accordance with the Constitution and laws of the Tribe.
  - e. The Comptroller General shall provide such other assistance as requested by the Tribal Council in accordance with the legislative powers of the Tribal Council listed in Article IV, Section 7 of the

Constitution.

4.04. *Subpoena.*

a. Pursuant to the authority of the Tribal Council, the Comptroller General shall have the authority to request in writing information and documents from the departments, boards, commissions, committees and businesses of the Tribe, and if any department, board, commission, committees, or business refuses or fails to comply with the written request of the Comptroller General, then the Speaker of the Tribal Council shall be authorized to issue a subpoena to the director and/or head of the department, board, commission, committee, or business to appear before a Tribal Council to answer questions or produce requested information and documents.

b. Any subpoena issued by the Speaker of the Council shall be enforced by an officer of the Public Safety Department.

c. Failure to comply with a subpoena issued by the Speaker of the Tribal Council shall result in the following:

1. the refusal to comply with a subpoena shall be reduced to writing by the Public Safety Officer which shall be submitted to the Speaker of the Tribal Council; and,

2. failure to comply with a subpoena issued under this section, the individual named in the subpoena shall be subject to the penalties as set forth in Article IX; and,

3. the sovereign immunity of the individual named in the subpoena may be waived in accordance with Article XI, Section 2 of the Constitution for purposes of enforcement of the subpoena; and,

4. the Tribal Court shall hear an action to enforce a subpoena issued by the Speaker of the Tribal Council, and upon a finding that the subpoena is reasonably related to the authorities in this Ordinance, the Tribal Court shall uphold and enforce such subpoena.

4.05. *Reporting.* The Comptroller General shall provide regular written reports to the Tribal Council on its findings. The reports of the Comptroller General shall include recommendations for corrective action to address any identified weaknesses, deficiencies, and findings.

4.06. *Compensation.* The Comptroller General shall be paid reasonable compensation as authorized by the Tribal Council; provided, that such compensation shall be subject to appropriation by the Tribal Council.

**Article V. Tribal Council Budget Office**

5.01. *Establishment.*

a. The Tribal Council hereby creates and establishes a Tribal Council Budget Office with the Legislative branch of government.

b. The Tribal Council Budget Office shall be under the authority and supervision of the Tribal Council.

c. Until such time as it is determined by Tribal Council that the Tribal government activities warrant a director for both the Government and Business Accounting Office and the Tribal Council Budget Office, the responsibilities of the Tribal Council Budget Office shall be delegated to the Comptroller General.

5.02. *Director.*

a. The director of the Tribal Council Budget Office shall be called Director of the Tribal Council Budget Office. The Director shall be hired by the Tribal Council and shall be employed at the discretion of the Tribal Council.

b. Employees working in the Tribal Council Budget Office shall be under the supervision of the Director.

c. The Director shall be a certified public accountant and shall possess, and maintain during the course of employment, a valid certified public accountant license, permit or certification from a State. Failure to maintain a certification during the course of employment shall result in immediate

termination.

5.03. *Duties.*

- a. The Director shall assist the Tribal Council and Tribal Council Committees with the development of budget and spending priorities.
- b. The Director shall evaluate the annual budget proposed by the Ogema and shall provide advice and recommendations to the Tribal Council on such budget.
- c. The Director shall provide such other assistance as requested by the Tribal Council in accordance with the legislative powers of the Tribal Council listed in Article IV, Section 7 of the Constitution.

**Article VI. Internal Audit Department**

6.01. *Establishment.*

- a. The Tribal Council hereby creates and establishes an independent Internal Audit Department as a department reporting directly to the Ogema.
- b. The Internal Audit Department shall be under the direct supervision of the Ogema.

6.01a. *Limitations.* The Ogema is prohibited from delegating any supervision of the Internal Audit Department in order to maintain the independence of auditing activities, avoid undue influence and direction, and prevent conflicts.

6.02. *Chief Internal Auditor.*

- a. The director of the Internal Audit Department shall be called the Chief Internal Auditor. The Chief Internal Auditor shall be hired by the Ogema in accordance with the Constitution and laws of the Tribe.
- b. Employees working in the Internal Audit Department shall be under the supervision of the Chief Internal Auditor.
- c. The Chief Internal Auditor shall be a certified public accountant and shall possess, and maintain during the course of employment, a valid certified public accountant license, permit or certification from a State. Failure to maintain a certification during the course of employment shall result in immediate termination.

6.03. *Duties.*

- a. The Chief Internal Auditor shall conduct internal audits.
- b. The Chief Internal Auditor shall produce quarterly reports for the preceding quarter of the fiscal year detailing the status of the income and expenses of the Tribe, and other relevant information, in relation to the approved annual budget, and such quarterly reports shall be provided to the Ogema, Comptroller General, and the Tribal Council. The reports shall be submitted no later than the 20<sup>th</sup> day of April, July, October and January.
- c. The Chief Internal Auditor shall conduct internal audits in accordance with Generally Accepted Auditing Standards for internal audits to the extent that such principals are not in conflict with the Constitution and laws of the Tribe.
- d. The Chief Internal Auditor shall prepare a proposed annual budget for the Internal Audit Department in accordance with the power of the Ogema to prepare and present an annual budget to the Tribal Council under Article V, Section 5(a)(5) of the Constitution, and in accordance with the power of the Tribal Council to approve or amend the annual budget.
- e. The Chief Internal Auditor shall provide such other assistance as requested by the Ogema in accordance with the executive powers of the Ogema listed in Article V, Section 5 of the Constitution.

6.04. *Reporting.* The Chief Internal Auditor shall immediately provide a copy of any internal audit to the Tribal Council and Comptroller General.

6.06. *Audit Schedule.*

- a. *General.* The Chief Internal Auditor shall provide to the Ogema a schedule of audits in compliance with the auditing requirements of this section, to be conducted in the next fiscal year at

least 90 days prior to the close of the current fiscal year. The schedule of audits shall be required to identify that all Departments are audited at least once every two years, except as specifically identified below. The schedule of audits shall be filed with the Tribal Council for the Closed Session agenda, for information only, which shall be maintained by the Tribal Council in Closed Session until the conclusion of the Fiscal Year.

b. *Major Grant Activities.* Major grant activities of the Tribe shall be audited each year and all grant reporting shall be monitored on a monthly basis.

c. *Specific Audits - Required.* The audit schedule shall require the following activities to be audited on an annual basis.

1. Finance Department which shall include the following specific accounting functions.
  - A. Payroll
  - B. Accounts Payable
  - C. Revenue Receipts
  - D. General Ledger Maintenance
  - E. Cash Management Activities, including, but not limited to, bank reconciliations.
2. Human Resources Administration Compliance.
3. Information technology systems.

d. *Special Audits - Ogema.* The Ogema may request special audits to be included in the audit schedule.

6.07. *Audit Requirement Exceptions.* The following activities shall be exempt from auditing duties set forth in section 6.03. Provided that, the exceptions identified in this section shall not include an audit of the financial activities unless specifically stated otherwise.

a. *Enrollment.* The enrollment activities of the Enrollment Department and the Enrollment Commission shall be audited under the requirements of the Enrollment Ordinance, and shall not be subject to audit under section 6.03.

b. *Binojeeuk Commission.* The activities of the Binojeeuk Commission shall not be subject to audit under section 6.03.

c. *Gaming Commission.* The activities of the Gaming Commission shall not be subject to audit under section 6.03. Provided that, all internal audits conducted by the Gaming Commission shall be required to be forwarded to the Chief Internal Auditor, Comptroller General, and Tribal Council, for review and information.

6.08. *Internal Audit Content.* Internal audits shall consist of the following minimum information.

a. Cover memo from Chief Internal Auditor regarding recommendations as a result of the audit and corrective action plan.

b. A description of the scope of the audit, investigation, persons interviewed and documents reviewed, including all findings and recommendations.

c. A original corrective action plan signed by the department director, including any objections to the audit findings.

d. Signature of Chief Internal Auditor, and Internal Auditor which conducted the audit if different, attesting to the accuracy of the audit and audit findings.

6.09. *Corrective Action Plan.* Every audit shall contain a corrective action plan which contains the following information.

a. Response to each finding by department, program or office manager which identifies actions to correct errors identified in audit findings.

b. Signature of the department, program or office employee responsible for the supervision of the activity being audited.

6.10. *Finalization of Audit.* All audits shall be submitted to the Ogema by the Chief Internal Auditor and shall be signed by the Ogema authorizing the corrective actions to be completed in accordance with the audit



report. The Ogema shall be presented audits for which corrective action plans are not timely submitted, or are refused, without the corrective action plans and shall include a notice of noncompliance with the corrective action plan request.

#### **Article VII. Tribally Chartered Enterprises; Corporations**

7.01. *Exception.* No tribally chartered enterprise or corporation of the Tribe shall not be subject to audits under Article VI. Tribally chartered enterprises and corporations shall be required to develop appropriate business like auditing and compliance responsibilities.

7.02. *Little River Casino Resort.* The Little River Casino Resort, a Tribally chartered enterprise, shall be subject to –

- a. internal compliance audits conducted by the Little River Casino Resort;
- b. compliance audits, and financial audits, conducted by the Gaming Commission under authority of the Gaming Commission Ordinance and Gaming Ordinance; and
- c. external audits conducted by external auditors engaged by the Gaming Commission in compliance with the Tribe's ordinances and the Indian Gaming Regulatory Act and related tribal and federal laws and regulations.

7.03. *Reporting - Tribally Chartered Enterprises.* All Tribally chartered enterprises shall be required to report audits to the Comptroller General and the Chief Internal Auditor. Such reports shall be maintained in a confidential manner, and shall be reported by the respective personnel to the Ogema and the Tribal Council regarding the status of the Tribally chartered enterprise.

7.04. *Reporting - Corporations.* All corporations shall forward audited financial statements to the Comptroller General and the Chief Internal Auditor after approval by the board of directors of the corporation. Such audited financial statements shall be maintained in a confidential manner, and shall be reported by the respective personnel to the Ogema and the Tribal Council regarding the status of the corporation.

#### **Article VIII. External Audits**

8.01. *Findings.* The Tribal Council, under Article IV, Section 7(i)(2) of the Constitution is authorized to managing all funds of the Tribe. The conducting of external audits over the financial activities of the Tribe, in compliance with this Ordinance and federal law, is an integral part of managing the funds of the Tribe. The Tribal Council finds that –

- a. implementation of the budget, managing accounting systems, and conducting internal audits, are sufficient tools provided to the Office of the Ogema in which to identify processes and procedures which protect the assets of the Tribe; and
- b. separating internal and external auditing functions is in the best interests of the Tribe in order to avoid misappropriation of funds, and to avoid conflicts in the expenditure of Tribal funds and the oversight of those expenditures.

8.02. *Requirements.*

- a. The government of the Tribe shall be audited annually.
- b. The annual audits shall be conducted by a certified public accounting firm in accordance with Generally Accepted Auditing Standards for audits. The Tribal Council shall be authorized to hire such firm in accordance with the procurement policies and laws of the Tribe, subject to the power of the Tribal Council to appropriate funds for such purposes.

8.02. *Reporting.* The Tribal Council shall provide a copy of any external audit to the Office of Ogema, Chief Internal Auditor and Comptroller General.

8.03. *Auditor Restrictions.* No external audit firm shall audit the activities of the Tribe for a period longer than three years. All external audit firms shall have a three year period between auditing contracts. Provided that exceptions to these restrictions may be forwarded to the Tribal Council for authorization after review and recommendation by the Comptroller General.

## **Article IX. Penalties**

9.01. *Personnel Related.* Employees who fail to comply with auditing activities, whether internal or external audits, are subject to suspension for five days without pay, and may be subject to immediate termination, for the first occurrence. An employee found to have failed to comply with auditing activities a second time, whether or not in related actions, shall be immediately terminated. An employee terminated under this section shall not be considered eligible for re-employment for a period of five years.

9.02. *Civil Penalties.* Any person failing to comply with auditing activities under this ordinance may be subject to a civil penalty, up to, \$5000.00, as brought by the Prosecutor and determined by the Tribal Court.

9.03. *Criminal Penalties.* It shall be a crime to knowingly delay, interfere with or otherwise obstruct the conduct of an internal or external audit of Tribal government activities, including Tribally chartered enterprises subject to one year imprisonment and/or a fine up to \$5000.00.