Government Business and Accounting Act of 2010
Ordinance # 10-100-06

Article I. Purpose; Findings

1.01. *Purpose.*

a. To establish a legislative Government Business and Accounting Office, 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 Business and Accounting Office, 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 ordinances, regulations, 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 Business and Accounting Office in the legislative branch of government as a legislative 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 the functions and authorities granted under the Constitution and Tribal ordinances and regulations. 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 ordinances and regulations, 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 affected by the following resolutions.

a. Repeal of Audit Reform Act of 2006 and adoption of Government and Business Accounting Act of 2010 by resolution #10-0210-35.

b. Amending the Ordinance to remove the director title from the position of Comptroller General by resolution # 16-0525-158.

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 "Government Business and Accounting Act".

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* is an independent, objective assurance and consulting activity 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 chartered under the Tribe's Limited Liability Company Ordinance #03-800-02.

3.04. *Grant*, as used in this Ordinance, means PL 93-638 contracts, and grants issued by an external agency.

3.05. *Major Program Activity* means those grants which meet the definition of a major program in the U.S. Government Office of Management and Budget Circular A-133 Sub-part E, Section .520.

3.06. *Auditing Standards Generally Accepted in the United States of America* means the standards published by the American Institute of Certified Public Accountants, the Institute of Internal Auditors, United States Office of Management and Budget or other regulatory bodies that publish auditing standards applicable to grants administered by the Tribe.

3.07. *Tribally Chartered Enterprise* means a commercial operation established by Tribal Council in exercise of their powers contained in Section 7(a) 2 and (f) of the Little River Band of Ottawa Indians Constitution, wholly owned by the Tribe or where the Tribe has a majority interest and is managed as for profit entity.

Article IV. Government Business and Accounting Office

4.01. *Creation of the Government Business and Accounting Office.*

a. The Tribal Council hereby creates and establishes the Government Business and 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 Comptroller General shall be hired by the Tribal Council and shall be employed at the discretion of the Tribal Council.

b. All 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 the State of Michigan. Failure to maintain such license, permit or certification during the course of employment shall result in immediate termination. A certified public accountant licensed in any other state will have 90 days from the date of hire to obtain a Michigan license, permit or certification.

4.03. *Responsibilities of the Government Business and Accounting Office:*

a. 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. 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. Prescribe additional auditing standards and financial practices as necessary to be presented for approval by the Tribal Council.
d. Prepare an annual budget for the Government Business and Accounting Office and present such budget to the Tribal Council for review and approval in accordance with the Constitution and laws of the Tribe.
e. 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.
f. Assist the Tribal Council and Tribal Council Committees with the development of budget and spending priorities.
g. Evaluate the annual budget proposed by the Ogema and provide advice and recommendations to the Tribal Council on such budget.
h. Conduct internal audits in accordance with Generally Accepted Auditing Standards for internal audits to the extent that such standards are not in conflict with the Constitution or laws of the Tribe.

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. If any department, board, commission, committee, 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 Tribal Council to answer questions or produce the requested information and documents.
b. Any subpoena issued by the Speaker of the Tribal 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 enforcing public safety officer shall reduce to writing the refusal to comply with a subpoena and submit it to the Speaker of the Tribal Council; and,
2. the individual named in the subpoena shall be subject to the penalties 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. *Staffing.* The Chief Internal Auditor shall be subject to the licensing requirements in Section 4.02. c.

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

Article V. Internal Audits

5.01. *Audit Schedule.*

a. *General.* The Comptroller General shall provide to the Tribal Council a schedule of audits to be conducted in the next fiscal year at least 90 days prior to the close of the current fiscal year. All government departments are to be audited at least once every two years, except as specifically identified below. The schedule of audits shall be filed with the Tribal Council for information only in Closed Session, and shall be maintained by the Tribal Council in Closed Session until the conclusion of the Fiscal Year.

b. *Specific Audits Required.* The following activities are to be audited on an annual basis:

1. Finance Department which shall include the following 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.
4. Major program grant activities
5. Grants or other programs that require an annual audit by the grant / program agreement or by other U.S. Government regulation.

c. *Special Audits.* The Tribal Council or Ogema may request special audits to be included in the audit schedule.

5.02. *Audit Requirement Exceptions.* The following activities shall be exempt from auditing duties set forth in section 5.01 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 5.01.

b. *Binojeeuk Commission.* The activities of the Binojeeuk Commission shall not be subject to audit under section 5.01.

c. *Gaming Commission.* The activities of the Gaming Commission shall not be subject to audit under section 5.01. Provided that, the final audit report for each internal audit conducted by the Gaming Commission shall be forwarded to the Comptroller General and Tribal Council for review and information within 30 days of issuance. Further provided, that the policies, procedures and processes of the Gaming Commission shall be subject to review or audit by the Tribal Council or the Comptroller General.

5.03. *Internal Audit Content.* Internal audit reports shall consist of the following minimum information:

a. Findings and recommendations

b. Audit scope, persons interviewed and documents reviewed

c. Description of the activities of the entity being audited

d. An original corrective action plan as described in Section 5.04 signed by the Director or other official of the activity being audited.

e. Signature of the Comptroller General or audit staff who conducted the audit attesting to the accuracy of the audit findings.

5.04. *Corrective Action Plan.* A corrective action plan shall be submitted by the Director or other official of the activity being audited which shall include the following:

a. Response to each audit finding and recommendation indicating corrective actions to be taken or disagreement with those findings and recommendations.
b. Schedule showing completion dates for implementing items on the corrective action plan.
c. Signature of the Director or other responsible official of the activity being audited.
d. The corrective action plan shall be submitted no later than 30 days after the receipt of the audit findings and recommendations by the director or other official of the activity being audited. Failure to meet the deadline shall subject the director or other official of the activity being audited to the penalties set forth in Article IX.

5.05. *Finalization of Audit.* All audit reports shall be submitted to the Ogema and the Ogema shall acknowledge receipt of the audit report in writing. Audits for which corrective action plans are not timely submitted or are refused shall be presented to the Ogema with a notice of noncompliance with the corrective action plan request.

Article VI. Little River Casino Resort

6.01. *Little River Casino Resort.* The Little River Casino Resort, a tribally chartered enterprise, shall not be subject to the requirements under Article V but 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. Annual audits conducted by a certified public accounting firm in accordance with auditing standards generally accepted in the United States of America and in compliance with the Tribe's ordinances and the Indian Gaming Regulatory Act and related tribal and federal laws and regulations. The Tribal Council shall be authorized to hire such firm in accordance with the procurement policies and laws of the Tribe. The Gaming Commission shall bear the cost of the annual audit.
d. *Auditor Restrictions.* No external audit firm shall audit the activities of the Little River Casino Resort for a period longer than three years and all external audit firms shall have a three year period between auditing contracts. Exceptions to these restrictions may be forwarded to the Tribal Council with proper justification for authorization after review and recommendation by the Gaming Commission.

Article VII. Tribally Chartered Enterprises & Corporations

7.01. *Exception* The Little River Casino Resort is not subject to the requirements of Article VII.

7.02. *Audits.* No tribally chartered enterprise or corporation of the Tribe shall be subject to audits under Article V but shall be required to develop appropriate auditing and compliance responsibilities including annual audits as required in Sections 7.03 and 7.04 below.

7.03. *Reporting - Tribally Chartered Enterprises.* All tribally chartered enterprises shall be required to submit annual audit reports to the Ogema, Tribal Council and the Comptroller General no later than 180 days after year end. The annual audits shall be performed by independent, licensed, certified public accountants or by the Government Business and Accounting Office. All such reports shall be shall be kept confidential except for limited distribution as authorized by the Ogema or the Comptroller General.

7.04. *Reporting - Corporations.* Annual financial audits of each corporation shall be required. Audits shall be performed by independent, licensed, certified public accountants or by the Government Business and Accounting Office at the discretion of the corporation's Board of Directors. Audited financial statements shall be forwarded to the Ogema, Tribal Council and the Comptroller General no later than 180 days

after year end. The audited financial statements shall be kept confidential except for limited distribution as authorized by the Board of Directors, Ogema and Comptroller General.

7.05. *Auditor Restrictions*. The hiring of an external audit firm shall require the prior approval of the Tribal Council. No external audit firm shall audit the activities of any tribal enterprise or corporation for a period longer than three years and all external audit firms shall have a three year period between auditing contracts. Exceptions to these restrictions may be forwarded to the Tribal Council with proper justification for authorization after review and recommendation by the Comptroller General.

7.06. *Penalties*. Failure to meet the deadlines imposed in Sections 7.03 and 7.04 shall subject the members of the Board of Directors or other responsible official to the penalties set forth in Article IX.

Article VIII. External Audits

8.01. *Findings.* The Tribal Council, under Article IV, Section 7(i)(2) of the Constitution is authorized to manage all funds of the Tribe. The conducting of external audits of 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. The annual budget, management accounting systems, and internal audits, are sufficient tools for the Office of the Ogema to identify processes and procedures which protect the assets of the Tribe and,

b. That annual external and internal audits are required to adequately protect the assets of the Tribe.

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 auditing standards generally accepted in the United States of America and in accordance with OMB Circular A-133. 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.

8.03. *Reporting.* The Tribal Council shall provide a copy of any external audit to the Ogema and the Comptroller General.

8.04. *Auditor Restrictions.* No external audit firm shall audit the activities of the Tribe or any tribal enterprise or corporation for a period longer than three years and all external audit firms shall have a three year period between auditing contracts.

a. Requests for exceptions to these restrictions shall be forwarded with proper justification to the Comptroller General or, with respect to the Little River Casino Resort, the Gaming Commission.

b. The Tribal Council may allow the exception to the restrictions after review and with the recommendation of the Comptroller General or, with respect to the Little River Casino Resort, the Gaming Commission

Article IX. Penalties

9.01 *Compliance*. The Ogema, Tribal Council Speaker and Chief Judge are each equally responsible for ensuring compliance with this article.

9.02. *Personnel Related.* Employees who fail to comply with auditing activities, whether internal or external are subject to the disciplinary actions prescribed in the Government Employment Relations Act of 2005 Ordinance # 05-600-01 Section 4.03. Progressive Discipline and Tribal regulation Chapter R600 – Government Operations Personnel Manual Section 7.5 Disciplinary Action. An employee terminated under this section shall not be considered eligible for re-employment for a period of five years.

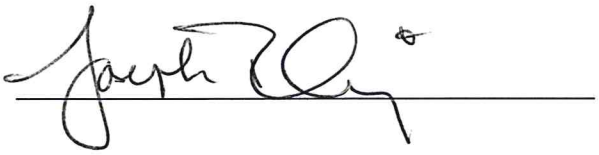
Government Business and Accounting Act of 2010
Ordinance # 10-100-06
Adopted: February 10, 2010
Amended: May 25, 2016
Resolution: #16-0525-158

9.03. *Civil Penalties.* Any person failing to comply with auditing activities under this ordinance may be subject to a civil penalty up to $5,000.00, as brought by the Prosecutor and determined by the Tribal Court.

9.04. *Criminal Penalties.* It shall be a crime to knowingly or intentionally 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 $5,000.00.

CERTIFICATION

I, Joseph Riley II, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Government Business and Accounting Act of 2010 adopted by the Tribal Council on May 25, 2016.



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