

## **Chapter 6. Investment Statute**

### **7.601 PURPOSE**

It is the purpose of the Little Traverse Bay Bands of Odawa Indians (LTBB) to invest its funds in keeping with the Investment Policy Statement (IPS) of the Tribe and to comply with any applicable federal laws or regulations regarding federal program monies received and administered by the Tribe. This statute repeals and replaces WOS 2000-13, WOS 2007-002 and WOS 2009-015.

(Source: WOS 2012-012, September 9, 2012, Section I)

### **7.602 DEFINITIONS**

**A.** “Registered Investment Advisor” means any person or group that makes investment recommendations or conducts securities analysis in return for a fee, whether through direct management of client assets or via written publications and who is registered with the Financial Industry Regulatory Authority.

**B.** “Investment Manager” means a person or, more often, a bank or business who controls an investment portfolio on behalf of a client. Investment managers make investment decisions on behalf of the client in accordance to the parameters set by the client in the Investment Policy Statement (IPS). The goal is to make the most profit for the client as possible within the parameters set in the IPS. Some investment managers have more autonomy than others, depending upon the client's needs and desires. Institutional investment managers normally hire a team to work on the different accounts it has under management. Unlike brokers, investment managers are not paid on commission, but rather by a percentage of the total amount of money under management. This gives the investment manager an incentive to work for the client's profit, as the more money the manager accumulates, the more the manager makes.

**C.** “Market Cycle” means the time period between the two latest highs or lows of the S&P 500 Index, showing net performance of a fund through both an up and a down market.

**D.** “Index” means a recognized grouping of securities used to measure the general performance of a market or market sector.

(Source: WOS 2012-012, September 9, 2012, Section II)

### **7.603 INVESTMENT ADVISOR**

**A.** The Tribal Council or its designee retains a Registered Investment Advisor for the following:

- 1.** Assist the Tribe in strategic investment planning for the Tribes assets by providing assistance in developing an Investment Policy Statement, an asset allocation strategy, and portfolio structure.
- 2.** Provide written performance measurement reports on a quarterly basis.
- 3.** Assist the Tribal Council or its designee in its selection of investment strategies.
- 4.** Meet with the Tribal Council or its designee biannually to assist it review the last six months investment performance and consider whether any changes or other actions are called for with respect to the investment portfolio.

**B.** The Registered Investment Advisor is prohibited from disseminating advice known to be deceitful or fraudulent and from acting as a principal on their own accounts by buying and selling securities between themselves and a client without prior written consent.

(Source: WOS 2012-012, September 9, 2012, Section III)

### **7.604 INVESTMENT POLICY STATEMENT**

**A.** Tribal Council or its designee shall acquire assistance from persons with a financial background to formulate an Investment Policy Statement in order to implement an investment plan.

**B.** Tribal Council shall adopt an Investment Policy Statement (IPS) that sets forth a plan for the management of the assets and is used to direct and communicate the activities of the portfolio.

**C.** This IPS will serves as a formal, long-range, plan that allows Tribal Council or its

designee to coordinate the management of the investment program in a logical and consistent framework and outlines the goals and investment objectives of the Tribe.

**D.** The IPS will be reviewed by Tribal Council as needed. All Tribal Investment Policy Statement and updates shall be submitted to Tribal Council for approval prior to its implementation.

**E.** The Investment Policy Statement shall include but not be limited to the following:

**1.** An assessment of the amount of risk the Tribe is willing to accept according to the then current and expected future economic conditions to determine the Fund or Funds risk tolerance level and the classes of investments that are allowed.

**2.** A determination of the proportionate amount (percentage) of investments (assets) the Tribe will allocate toward equities and fixed income investments and the amount of investment loss the Tribe is willing to accept. An example would be a loss of five percent (5%) on a ten (10) million dollar investment would be five hundred-thousand dollars (\$500,000). When the amount of loss is reached, some stock (equity) funds should be rebalanced toward more secure investments. When it is believed that the market has stabilized and a bottom has been reached, the allocation between equities should be increased in relation to fixed income investments in keeping with the Investment Policy Statement, and in consultation with the investment manager.

**3.** Establishing reasonable short term and/or long term investment objectives and define the length of time for each period as well as outlining the Tribes goals and guidelines for the Investments as outlined in the IPS. The major component of the Investment Policy Statement is identifying which investment classes are permitted and the allocation of these assets among various security classes to diversify into different investments that are not positively correlated with one another. The IPS will address further considerations for investment for these investment classes including diversification, quality and marketability and concentration by Issuer.

**4.** The Investment Policy Statement will need to be reviewed and possibly revised from time to time to ensure that it continues to reflect the Tribe's attitudes, expectations and objectives.

**5.** The Tribe in its discretion may invest the funds in Tribal Enterprises offering a significant rate of return for the risk associated with the investment as long as the estimated return is greater than the five (5) year risk-adjusted return on the investment portfolio.

(Source: WOS 2012-012, September 9, 2012, Section IV)

#### **7.605 FUNDS**

**A.** The Tribal Council or through its designee is hereby authorized to purchase or sell investment tribal funds in accordance with the Tribes Investment Policy Statement.

**B.** This Statute applies to all financial assets of LTBB including, but not limited to, funds derived through federally funded contracts and programs, such as The Indian Self-Determination & Education Assistance Act (Public Law 93-638) contract monies and Native American Housing Assistance Self Determination Act grants, and funds derived from LTBB enterprises. These assets are accounted for in various bank accounts held in the name of LTBB.

**C.** When making and administering investments under the authority of this Statute, funds received under a specific federal contract or grant, or from any other government or private funding source for specific purposes, must be individually invested for the short-term and accounted for, and shall not be co-mingled with any other funds. Such funds must be invested in a manner that ensures their availability for expenditure as set out in the contract or grant documents. Short term guaranteed preservation of principal is essential for such funds.

**D.** Tribal General Funds, including those derived from the enterprises and any other federal fund revenue sources shall be invested in a diversified manner designed to meet both the short and long term financial needs of LTBB as outlined in the Tribe's Investment Policy Statement. The Executive shall review the annual budget approved by the Tribal Council to calculate the estimated thirty (30) day, bi-annual and annual cash flows necessary to support LTBB operations and capital needs and update the calculations on a monthly basis. This information will be provided to Tribal Council as set forth in this section, or as requested by Tribal Councilor or its designee and will be utilized to determine the amount of funds that can be set aside for short term and longer term investments.

(Source: WOS 2012-012, September 9, 2012, Section V)

## **7.606 INVESTMENTS GENERAL GUIDELINE**

**A.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Any asset fees and third party analysis fees incurred in making investments shall be paid with income from such investments.

**B.** Any investment plan used to implement the Investment Policy Statement will be approved by Tribal Council or its designee.

**C.** When investments are doing well and their proportionate percentage amount of the total portfolio have increased to greater than the allocation plan, as stipulated in the Investment Policy Statement, then the additional value from those funds should be sold and the profits should be reallocated to other investments to rebalance the plan into a position of policy compliance. A market decline cannot be predicted however if one occurs, funds may be liquidated as outlined in the IPS.

**D.** Hire or retain a financial expert that is a registered representative that works for a managed asset fee and not a sales commission. This expert should monitor the Tribe's investment accounts at least monthly to determine risk and diversification in accordance with the Tribes Asset Allocation Plan as spelled out in the Investment Policy Statement. The Tribal Council or its designee may use an in-house expert, if available to monitor its portfolio's monthly portfolio performance as well via monthly financial statements provided by the investment manager.

**E.** A review of the Investment Manager's practices, process management systems, risk, performance and management fees shall be audited by an independent, global assessment and certification organization at least each three (3) year period (timed to match an average 3-5 year market cycle) to assure the Tribe's assets are invested according to the Tribe's Investment Policy Statement, to determine if the existing Investment Manager is meeting its fiduciary responsibility to the Tribe and to determine if the firm's management fee remains reasonable and competitive with other Certified Investment Managers.

**F.** Nothing above may preclude the Tribal Council from conducting its own independent

determination of whether the investment manager is meeting their fiduciary responsibilities to the Tribe. The Tribal Council may require an extra level of scrutiny, or consider termination, of an investment manager based on factors such as:

1. Any material event that affects the ownership or capital structure of the investment management firm, or the management of this account.
2. Any legal or regulatory action taken against the manager.
3. Any material servicing deficiencies, including failure to communicate in timely fashion significant changes as outlined in the IPS.
4. Violation of the terms of the contract or changes to an agreed upon services without prior written approval of Tribal Council or its designee.
5. Significant style drift from the intended investment style that the manager was engaged to implement.
6. Lack of diversification.

**G.** The Tribal Council shall approve the Investment Manager selection and termination criteria which shall be based on the three year professional review above. If a determination is made to change the investment manager then a minimum of three (3) potential Investment Firm candidates shall be selected to submit their proposals via an RFP selection process which evaluates such factors as:

1. Influence of existing manager on selection of assets.
2. Compliance history.
3. Short term and long term performance with more emphasis put on long-term performance.
4. Investment Style.
5. Focus on a systematic process that is appropriate for the organization as outlined in the Tribe's IPS.

6. Other factors as recommended from the Tribal Council or its designee and agreed upon by the Tribal Council.

(Source: WOS 2012-012, September 9, 2012, Section VI)

(Source: WOS 2012-021, December 2, 2012, Section VI(F)(4))

#### **7.607 PROHIBITED INVESTMENTS AND USES.**

**A.** The Tribal Council or its designee shall not invest any Little Traverse Bay Bands of Odawa Indians funds contrary to the funds approved for investment as outlined in the Tribe's IPS.

**B.** The Tribal Council will not be permitted to utilize the investment funds or future profits (cash flow) as collateral for a loan.

**C.** The funds that have been invested can only be withdrawn or expended by prior approval of Tribal Council. There is no dollar or percentage limit on the maximum amount of funds that can be liquidated by the Tribe.

(Source: WOS 2012-012, September 9, 2012, Section VII)

#### **7.608 REPORTING**

**A.** The Investment Manager should be available on a reasonable basis for telephone communication when needed.

**B.** The Investment Manager must provide the following reports to the Tribal Council, its designee and the respective firm or person monitoring the Investment Manager including:

1. Monthly detail of all account transactions.
2. Written quarterly performance evaluation reports to illustrate the risk/return profile of the various investments contained within the entire account and the chosen asset classes and how it correlates to the Tribe's IPS.

**3.** Semi-annually the investment manager will meet in person with the Tribal Council, its designee and the respective firm or person monitoring the Investment Manager to review the last six months performance through June 30<sup>th</sup> and December 31<sup>st</sup> of each calendar year.

**C.** The investment performance of the total portfolio and equity and fixed income segments (both in terms of return and risk) will be measured against commonly accepted benchmarks such as “Indices” as outlined in the IPS. Consideration shall be given to the extent to which the investment results are consistent with the investment objectives, goals and guidelines as set forth in the IPS.

(Source: WOS 2012-012, September 9, 2012, Section VIII)

#### **7.609 SEVERABILITY**

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2012-012, September 9, 2012, Section IX)

#### **7.610 EFFECTIVE DATE**

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2012-012, September 9, 2012, Section X)