



A Guide to Preparing  
**Environmental  
Management Plans**  
for Operational First Nations

November 2025



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## Acknowledgments

This is the second major release of the Guide to Preparing Environmental Management Plans, which was first published in 2016. The original idea for the Guide came from Meko Nicholas, Executive Director of the First Nations Lands Management Resource Centre.

This version of the Guide contains many updates and revisions to reflect what has been learned in the past decade about successful creation and implementation of Environmental Management Plans. The following Resource Centre staff and consultants made substantial contributions to the revised Guide:

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The Guide is intended to aid First Nations across Canada to prepare Environmental Management Plans that reflect their communities' circumstances and goals. Effective implementation of the plans can improve the environmental quality of First Nations lands, waters, and communities. Environmental Management Plans also provide a meaningful expression of First Nations governance and stewardship.



## Glossary of Acronyms and Definitions

| ACRONYM             | DEFINITION  |
|---------------------|---|
| CCME                | Canadian Council of Ministers of the Environment  |
| CEPA                | <i>Canadian Environmental Protection Act</i>  |
| DFO                 | Fisheries and Oceans Canada   |
| EMP                 | Environmental Management Plan, intended to identify important environmental issues, propose methods to respond to those issues, and establish a strategy for implementation.  |
| EA                  | Environmental Assessment, a study intended to identify potential future impacts of proposed development and mitigation measures to avoid, reduce, or compensate for project effects.  |
| ESA                 | Environmental Site Assessment, designed to identify potential or actual environmental contamination of soil, water, or air, as guided by Canadian Standards Association Guides Z768 and Z769. Phase I, II, and III ESAs represent increasing levels of information about presence, extent, and remediation of contamination.  |
| Framework Agreement | The <i>Framework Agreement on First Nation Land Management</i> , signed by Her Majesty in right of Canada and 13 First Nations on February 12, 1996 and signed by other First Nations after that date, which empowers First Nations to withdraw their reserve land from the land management provisions of the <i>Indian Act</i> to exercise control over their land and resources for the use and benefit of their Members. |
| FAFNLMA             | The <i>Framework Agreement on First Nation Land Management Act</i> . Federal legislation that creates the legal basis for the Framework Agreement.  |
| IAA                 | <i>Impact Assessment Act</i> of Canada, which stipulates the process for conducting impact assessments of proposed project occurring on federal land, including First Nations land.   |
| LAB                 | Lands Advisory Board, the elected body authorized by the Framework Agreement that assists First Nations in developing and implementing Land Codes and other provisions of the Framework Agreement.  |
| RFP                 | Request for Proposals, a document circulated to consultants or other firms to solicit the submission of work programs, budgets, staff credentials, and related materials. The submissions are used to select a firm for a specified project.  |
| RESOURCE CENTRE     | First Nations Land Management Resource Centre, the service delivery arm of the LAB whose staff deliver specialized services to First Nations.   |
| SARA                | <i>Species at Risk Act</i> , federal legislation pertaining to identified species on federal land.  |



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## Introduction and Purpose

This guide is intended to assist operational First Nations in preparing Environmental Management Plans (EMPs). Although EMPs are not legally required, most First Nations recognize the value of planning in environmental governance that is enabled by the Framework Agreement. Questions often arise as First Nations embark on environmental planning, and this guide will provide answers and direction as communities conduct this important task.

Over the past several years, the First Nations Land Management Resource Centre (Resource Centre) has prepared a substantial body of information on Land Code implementation, including material on environmental management. The Resource Centre can provide technical assistance and funding support to First Nations seeking to prepare an EMP.

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## What is an Environmental Management Plan (EMP)?

An EMP is a document that identifies important environmental issues that affect a First Nation's lands and community. An EMP specifies how the First Nation plans to address or manage those identified issues and it establishes a strategy for implementing identified environmental management actions.

There is no single best way to prepare an EMP. Each First Nation's situation is unique, influenced by different geography, priorities, challenges associated with environmental issues, capacity, and community expectations. EMPs should reflect this distinctiveness, both in the content of the plans and the ways they are prepared.

This guide refers to Environmental Management Plans, though some First Nations may call the documents Environmental Plans or other similar terms. Environmental Management Plans should not be confused with Land Use Plans, Environmental Site Assessments, or Environmental Assessments. These different tools are necessary for First Nations land governance, but their purposes and content differ from EMPs.

### **Relationship of EMPs to Other Plans and Studies**

EMPs should be linked to other plans and studies First Nations may prepare as part of land governance. Figure 1 shows some of the more common kinds of plans and studies conducted by First Nations that are often related to the environment.

Phase I ESAs are typically completed before a Land Code vote, though Phase II ESAs are more useful in understanding the actual presence or absence of contamination and associated environmental risk and First Nations liability. ESA findings are helpful in preparing EMP descriptions of environmental conditions on reserves and areas potentially requiring remediation.

Most First Nations prepare a strategic plan to guide Chief and Council actions following a successful Land Code vote. Land use plans are particularly closely linked to environmental conditions and issues. Staff hiring and training plans, capital plans, and economic development plans also are often related to environmental management.

The content of EMPs and land use plans or economic development plans need to be consistent. That is, the environmental implications of development should be considered in an EMP, and environmental values and policies contained in an EMP should influence land use and economic development decisions.

Studies and assessment of cultural features and activities could influence an EMP. For instance, coastal or bank erosion affecting middens or cemeteries could be deemed an important environmental issue. Similarly, areas used for harvesting traditional medicines or food could be considered environmentally sensitive and included in an EMP.

The EMP's implementation section should consider the status and schedules of other related plans and recognize ways that the several plans can support each other.

**Figure 1. EMPs and Other Operational First Nation Plans and Studies**



## Benefits of an EMP

First Nations making decisions about preparing an EMP should consider the following advantages of having such a plan.

### ENVIRONMENTAL BENEFITS OF AN EMP

- Identifying and describing important environmental issues that should be addressed,
- Articulating a clear vision of a desired future environmental condition, with associated goals and objectives of environmental management on First Nations land,
- Specifying ways to rectify environmental problems, avoid and mitigate harmful effects, and remediate degraded habitat,
- Identifying actions to avoid contamination of reserves and subsequent costly remediation,
- Integrating traditional knowledge with a First Nation's environmental management program.

### GOVERNANCE BENEFITS

- Engaging the community in addressing environmental issues,
- Recommending specific policies and actions to respond to the identified environmental issues,
- Determining the kinds of laws that will be needed,
- Providing a schedule and strategy for future actions, which will aid in preparing work programs, budgets, funding applications, and staffing plans,
- Expressing a First Nation's rights and governance authority over its lands, and communicating that authority to other governments, businesses, and institutions,
- Formulating environmental actions that will reduce the First Nation's liability risk, and
- Communicating the First Nation's environmental priorities and actions to staff, community members, other governments, businesses, and institutions.

EMPs can identify and help to overcome organizational or administrative obstacles to achieving environmental goals. For example, an EMP can help a First Nation avoid the following governance problems:

- "Crisis management," in which Council and staff fail to anticipate problems, and instead respond to environmental emergencies,
- Ineffective delivery of services and actions caused by lack of clear goals, limited guidance to staff, or lack of defined work programs,
- Programs that are not cost-effective because of poor scheduling of environmental work, limited monitoring, and weak tracking of environmental expenditures, and

- Friction between the First Nations members, Council, staff, and adjacent jurisdictions caused by inadequate communications with, and involvement of, the parties.

Finally, without preparing an EMP, a First Nation may experience an increase in liability for environmental problems because it failed to show “due diligence” represented by a well-planned process of environmental management.

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## Meeting a First Nation’s Environmental Requirements under the Framework Agreement

The Framework Agreement establishes the extent of a First Nation’s land management authority. The following sections of the Framework Agreement deal with environmental matters:

- **Sec. 18:** Empowers First Nations to develop laws “respecting the development, conservation, protection, management, use and possession of First Nation land and interests or land rights and licenses in relation to that land”, including laws on environmental assessment and protection,
- **Sec. 23:** Provides examples of environmental laws that may be prepared and specifies that environmental assessment and protection regimes will be developed and be implemented through laws,
- **Sec. 24:** Offers detail on environmental protection (contaminant control) actions,
- **Sec. 25:** Describes environmental assessment requirements and procedures,
- **Sec. 27:** States that the “obligation of a First Nation to establish environmental assessment and environmental protection regimes depends on adequate financial resources and expertise being available to the First Nation.”

Before preparing an EMP, a First Nation should be familiar with the obligations and limitations contained in the Framework Agreement. The full text of the foregoing Framework Agreement sections is provided in Appendix A of this Guide.

Using the authority contained in the Framework Agreement, an EMP can outline the kinds of laws a First Nation wishes to enact. The Framework Agreement specifies that First Nations should prepare “regimes” pertaining to environmental protection (dealing with contaminants) and environmental assessment (dealing with the environmental effects of a proposed project or development). Such regimes may include policies, procedures, and permit requirements, and must be implemented via First Nations’ laws. Regimes (and laws) dealing with other environmental management or land governance matters also may be prepared. Operational First Nations continue to have the ability to enact bylaws under the *Indian Act*. The *Indian Act* specifies the topics that bylaws may

cover (gaming, taxation, trespassing, etc.). Because of the *Indian Act* limits on bylaws, low penalties for violations, reliance on Canada for enforcement (which historically has been poor), Land Code First Nations typically develop their own environmental laws in accordance with their Land Code and the Framework Agreement.

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## Environmental Management Responsibilities

With the adoption of a Land Code, a First Nation accepts responsibility for governing and managing its lands and natural resources. The Framework Agreement does not require preparation of EMPs, but the usefulness of such plans has become evident as First Nations wrestle with questions about how to meet their legal obligations and re-establish their roles as stewards of the land. Many First Nations have found that EMPs are valuable in setting direction and guiding future efforts to achieve environmental management and land governance goals.

A First Nation's environmental responsibilities can be seen as having the following components.

- 1. Protecting community members and reserve ecosystems from environmental harm.** Such protection usually involves making sure that development and other human actions do not create environmental problems or increase risks. Such protections may mean prohibiting development in areas subject to natural hazards (e.g., floods or landslides), preventing contaminated soil or other material from being dumped on reserves, and assuring that community members have clean water to drink and clean air to breathe.
- 2. Fulfilling environmental requirements of the Framework Agreement.** This Guide summarizes environmental sections of the Framework Agreement, which signatory First Nations agree to implement. At a minimum, a First Nation must have environmental protection and environmental assessment regimes, policies, laws, and other measures to address identified environmental issues. A First Nation's obligations to undertake these actions are subject to the availability of adequate resources and expertise.



- 3. Complying with federal environmental laws.** The Framework Agreement does not exempt First Nations from complying with other federal environmental laws. For example, First Nations must still abide by provisions of the *Fisheries Act*, *Species at Risk Act*, and *Migratory Birds Convention Act*. The Framework Agreement's provision for adequate resources and expertise (Section 27.1) does not exempt a First Nation from complying with other federal laws.
- 4. Limiting liability.** Legal and financial liability may accompany an operational First Nation's responsibilities for managing environmental issues arising after a land code takes effect. For instance, an operational First Nation may be liable for environmental incidents that could have been reasonably foreseen or avoided. Legal action or fines could result from failure to comply with federal laws or from allowing contamination from a reserve to affect public health or environmental quality. Such liability can be reduced if a First Nation shows due diligence in identifying environmental issues and taking action to respond to those issues. Careful preparation and active implementation of an EMP can be important in proving due diligence in environmental management.



**First Nations are not liable for environmental issues resulting from acts or omissions by Canada or other parties authorized by Canada that occurred before the First Nation's land code came into force (see Section 50.1 of the Framework Agreement).**

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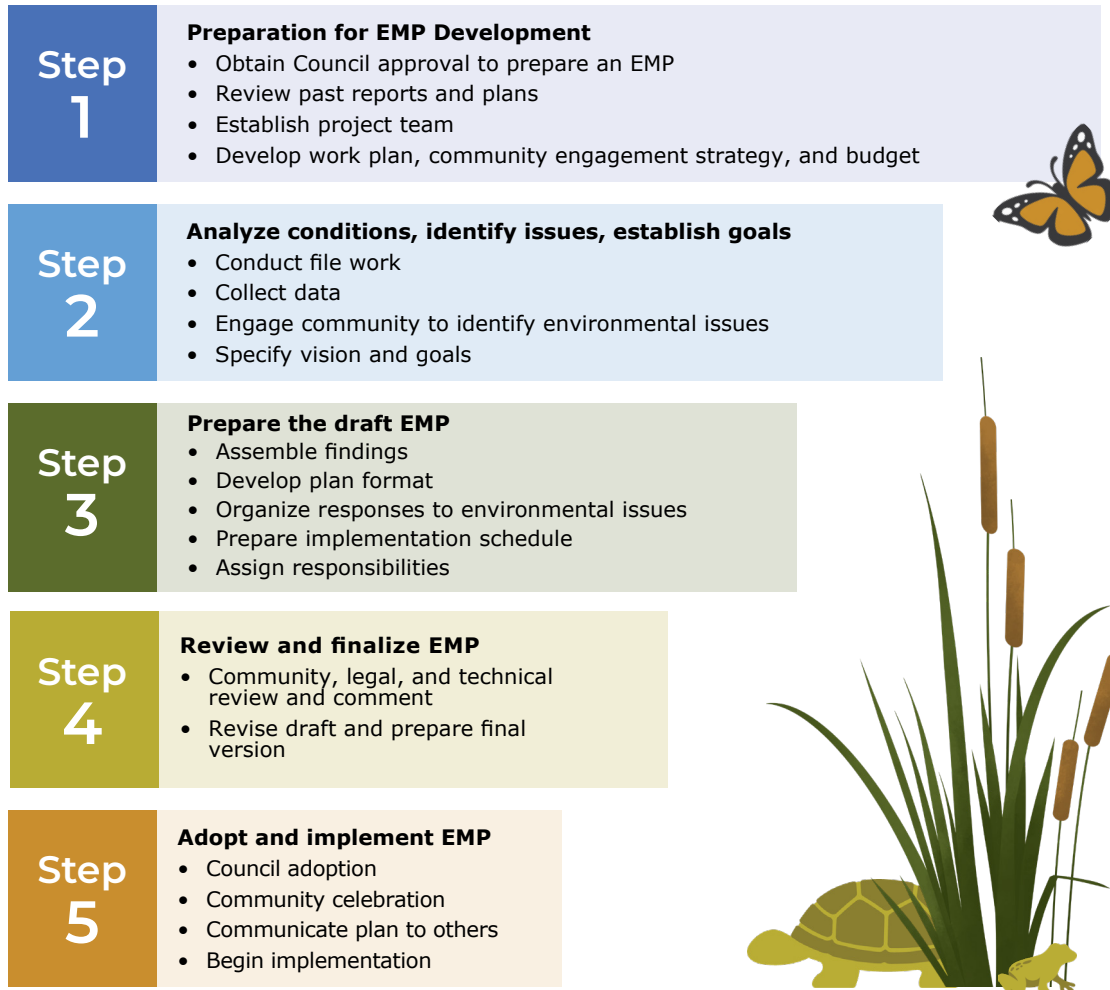
## Steps in Preparing an EMP

Figure 2 outlines the main steps involved in planning for, and preparing, an EMP. The steps can be amended to suit local conditions. More detail is provided on EMP preparation in the remainder of this guide.



**Figure 2. Main Steps in Preparing an EMP**

## Steps in an **Environmental Management Plan (EMP)**



### **STEP 1:** **Preparation for EMP Development**

Before initiating work on an EMP, the First Nation’s staff should assemble and review available environmental reports to determine if environmental issues of importance to the First Nation have been identified and addressed. Existing or future development that could affect the environment should be identified and considered. The assistance of specialists may be necessary.

The results of this review of available information and environmental conditions should be discussed with advisory committees (such as a Lands Committee or Environment Committee) and Council. A clear Council decision should be sought on proceeding with an EMP.

## Deciding Who Should Prepare the EMP

One of the first steps after a First Nation has decided to prepare an EMP is to identify who should be involved in preparing the plan. An initial question to answer is, should a First Nation prepare an EMP using its own staff, or should it hire a consultant? In answering this question, a First Nation should consider:

- Do First Nations staff have sufficient training and experience in environmental planning to prepare an EMP?
- Even if staff are qualified to prepare an EMP, do they have time available to do so? Preparing an EMP is time-consuming and could require a full-time commitment of six months or more. Such a commitment may conflict with other job requirements of qualified staff.
- Does the First Nation have the capacity to produce maps, print and bind the report, post it online, and prepare materials for community review?

As an aid to making decisions about the use or hiring of First Nations staff, and perhaps to guide hiring, the Resource Centre can provide examples of job descriptions for an Environmental Manager and Environmental Technician. First Nations should determine if these descriptions are applicable to local circumstances before using them in a hiring process.

As it decides how to prepare an EMP, a First Nation may consider collaborating with nearby First Nations. By pooling their staff and financial resources, two or more First Nations may find that they have the capacity to prepare their EMPs using their own personnel. If such collaboration seems feasible, the First Nations should develop a detailed agreement about how the work would be conducted, the work effort to be allocated to each community, deliverables, reporting relationships, and confidentiality. To promote efficiency and effectiveness in preparing the EMP, a single project manager should be assigned, regardless of the number of First Nations pooling their resources.

If a First Nation decides to retain consulting support, Appendix C presents detailed information on selecting and managing consultants involved in preparing EMPs.

Regardless of whether a First Nations relies on its own staff or on consultants to prepare their EMPs, the information in this Guide should be helpful in organizing and conducting the initiative.

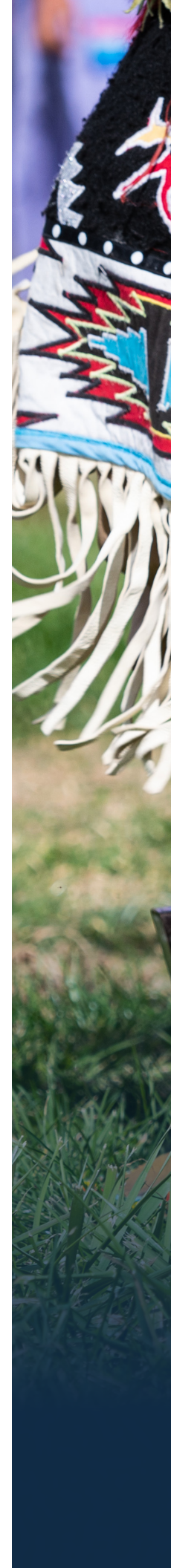
## Determining Reasonable Costs of Preparing the EMP

A common question is, “how much does it cost to prepare an EMP?” As could be expected, the answer is, “it depends.” The following conditions affect the amount of effort and associated cost of preparing an EMP.

- How much environmental work has been conducted on First Nations land before starting an EMP? If Phase I, II, and III Environmental Site Assessments (ESAs) have been completed, a First Nation should have a good idea of the extent of contamination on its reserves, and potential remediation options. Without such information, it may be difficult to know the presence or extent of contaminants,

and whether such contamination constitutes an environmental issue to be included in the EMP.

- Are other studies available that could support an EMP? Such studies include environmental inventories, habitat studies, land use plans, economic development plans, surveys of community opinions and values, and emergency response plans. If these or similar documents are up-to-date and relevant to a First Nation, a consultant can use that information to support initial stages of the EMP.
- How complex are environmental and land use conditions on a First Nation's land? Some reserves feature a variety of industrial, residential, commercial, resource extraction, agricultural, and other uses. Other reserves support only a few uses. Complex land use typically calls for an EMP that addresses many topics and may require assembly of information from many sources. Where fewer land uses occur, preparing an EMP may be simpler and less costly.
- How severe are the environmental issues facing a First Nation? If a First Nation has a history of challenging environmental problems, the preparers of an EMP may need to spend time identifying the extent of the issues and the range of potential responses. With fewer environmental challenges, less effort will be required to develop an EMP.
- What level of detail is sought in the EMP? An EMP should be considered a plan for future action and so can remain a reasonably simple document that establishes goals, directions and policies. Some First Nations have used EMPs to provide detailed operating specifications for various activities on their reserves. The more detail that is contained in an EMP, the more it will cost to prepare it.
- Where is the First Nation's land located? Remote communities face higher costs for many things, including retaining consultants to work on an EMP. Communities near urban centres may have little trouble finding consultants with suitable qualifications, and travel costs should be minimal. For communities far from cities, however, travel and accommodation costs can form a substantial portion of EMP budgets.
- What level of funding has been provided to prepare the EMP? Financial constraints may influence the scope and expense a First Nation can apply to EMP development. A First Nation may contact the Resource Centre to discuss costs, scope, and funding opportunities for EMPs.



**STEP2:**  
**Analyze  
 Conditions,  
 Identify Issues,  
 Establish Goals**

**Organizing the EMP Participants**

Figure 2 of this guide lists the steps involved in preparing an EMP. After the preparatory steps are complete, it will be time to assemble materials and to prepare the plan.

The success of a plan as broad as an EMP requires involvement of many people and organizations. Figure 3 shows the variety of bodies that should be engaged in the EMP. The roles and responsibilities of the various parties will vary with the nature of issues to be addressed in the EMP, the organization of the First Nation, and the relationships among the potential participants.

Figure 3. Participants in Preparing and Implementing an EMP

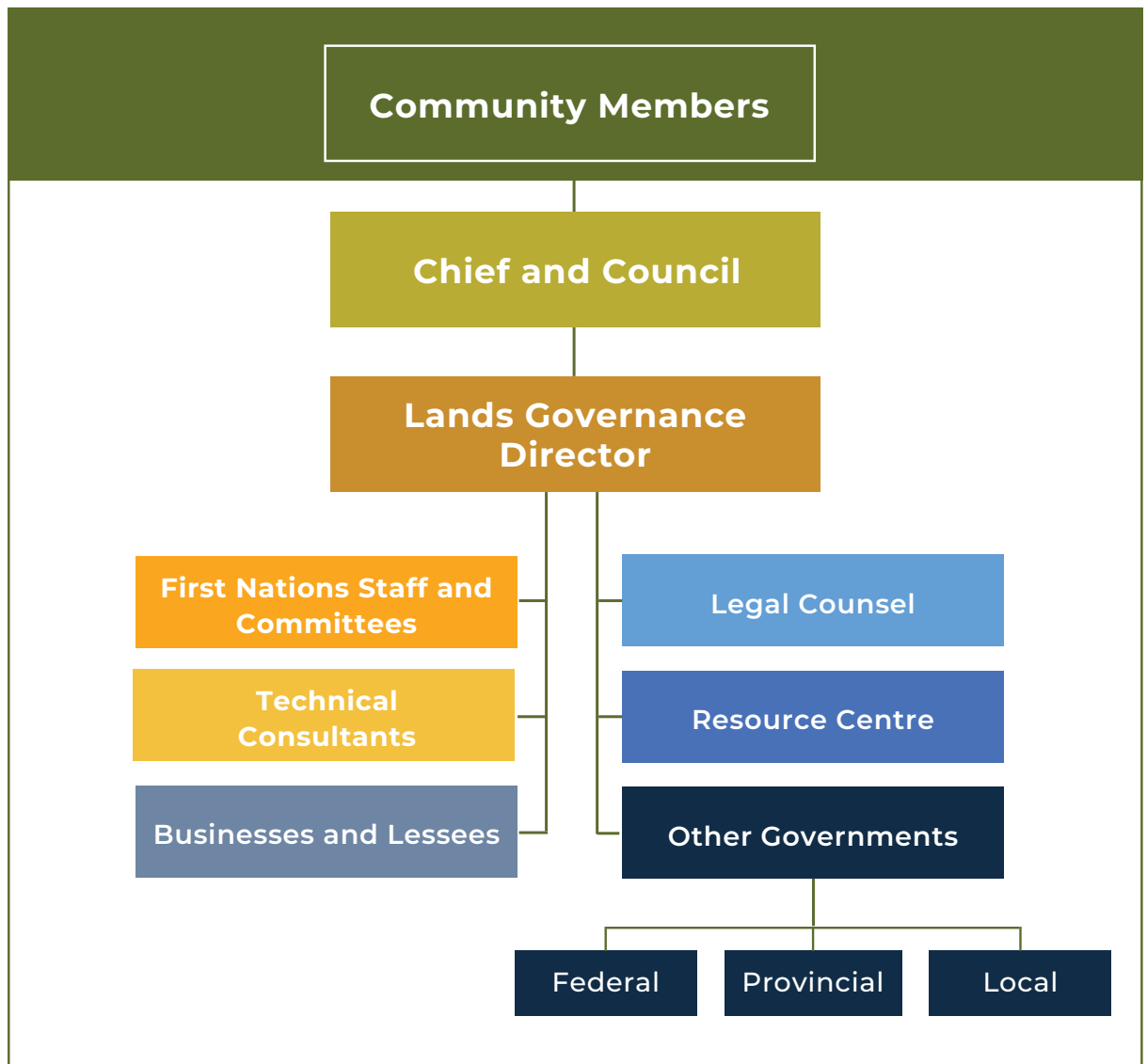


Table 1 lists the main responsibilities of key participants in preparing a typical EMP. The identified roles are just suggestions; a First Nation may decide on different participant responsibilities.

Table 1. Potential Roles for EMP Participants

| Body or organization  | Role in Environmental Management Plan  |
|---|--|
| <b>Chief and Council</b>  | <ul style="list-style-type: none"> <li>• Main First Nation decision maker and accountable authority that approves and adopts the EMP, laws, regulations, and policies</li> <li>• Approve EMP-related work programs and budgets</li> <li>• Endorse government-to-government agreements</li> </ul>   |
| <b>Lands Governance Director or Environmental Manager</b>                 | <ul style="list-style-type: none"> <li>• Prepare EMP work programs and staffing plans</li> <li>• Oversee preparation and implementation of EMP</li> <li>• Guide selection, hiring, and management of consultants</li> <li>• Coordinate EMP engagement and communication</li> <li>• Monitor and update EMP</li> </ul>   |
| <b>Lands, Environment, or Governance Committee</b>                        | <ul style="list-style-type: none"> <li>• Comment on proposed EMP content and preparation process</li> <li>• Identify environmental issues and responses</li> <li>• Review and comment on draft EMP</li> <li>• Support community engagement</li> <li>• Support ongoing EMP implementation</li> </ul>  |
| <b>Other First Nations departments</b>                                    | <ul style="list-style-type: none"> <li>• Comment on elements of EMP that are relevant to their departmental responsibilities</li> <li>• Support ongoing EMP implementation</li> </ul>  |
| <b>Community members, (including youth, Elders and Knowledge Keepers)</b> | <ul style="list-style-type: none"> <li>• Contribute knowledge about lands, resources and cultural practices</li> <li>• Articulate environmental values of the community</li> <li>• Help identify, discuss, and validate environmental issues and suitable responses</li> <li>• Discuss and comment on draft EMP,</li> <li>• Support ongoing EMP implementation</li> </ul>  |
| <b>Consultants and legal counsel</b>                                      | <ul style="list-style-type: none"> <li>• Support First Nations staff in preparing and implementing the EMP</li> <li>• Design and conduct specialized studies (ESAs, biophysical studies, risk assessments, urban design, land capability, etc.)</li> <li>• Draft First Nations’ laws authorized by the EMP</li> </ul>  |
| <b>Lease holders or other on-reserve businesses</b>                       | <ul style="list-style-type: none"> <li>• Comply with the EMP and First Nation laws, regulations, and policies</li> </ul>   |
| <b>Resource Centre</b>  | <ul style="list-style-type: none"> <li>• Provide technical support for EMP development and implementation</li> <li>• Accept and review First Nation’s funding applications for preparing and implementing an EMP</li> <li>• Administer Resource Centre EMP development and year 1 implementation funding initiatives</li> <li>• Provide opportunities for knowledge sharing and collaboration among First Nations</li> </ul> |
| <b>Federal, Provincial, and Municipal governments</b>                     | <ul style="list-style-type: none"> <li>• May be contacted to provide specific services to a First Nation</li> <li>• Collaborate with First Nations on management of water, wildlife, and other resources</li> <li>• Source of environmental regulations and standards for consideration by a First Nation</li> </ul>   |



## Identify Conditions and Issues

EMPs should focus on environmental issues on First Nations reserves. Answering the following questions about environmental conditions and associated issues will help prepare a First Nation to develop its EMP.

### Review Previous Studies

- What environmental conditions and issues on reserve have been documented by past studies?
- What environmental information did Indigenous Services Canada (ISC) collect before the First Nation adopted a Land Code? Did ISC plan to remedy or monitor those issues? Has that information been provided to the First Nation?

### Identify Environmental Issues on Reserve

- What environmental issues are present on First Nations land? Are these issues important in the community?
- How are the identified environmental issues being managed? What environmental issues are not being resolved? Remember to consider issues that pre-date adoption of a Land Code and could have occurred under Canada's land management.
- What environmental issues may result from future development on First Nations land?

### Determine the Community and Regulatory Context of Environmental Issues

- How familiar are the First Nation's staff members with environmental issues and responses?
- What does the community's Land Code or Individual Agreement say about the environment?
- What elements of a Land Use Plan or Economic Development Plan are related to the environment?
- What Band Council Resolutions and policies have Chief and Council adopted with regard to the environment?
- How do the operations or mandates of First Nations departments (e.g., housing, public works) affect the environment?
- What provincial and federal environmental regulations presently apply on the reserve?
- Do regulatory gaps exist? Are First Nations laws and regulations needed to fill identified gaps?



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## Conceive a Vision

Many EMPs contain a vision statement to outline the environmental improvements and community benefits that will result from implementing the EMP. Vision statements should describe future conditions, not governmental processes. The desirable future should be ambitious but achievable, and the reader should be able to envision the improvements in local lands, waters, air, vegetation, and wildlife. Generic statements that could apply anywhere will not be very effective.

The actions proposed in the EMP should be designed to help achieve the vision. The EMP's vision statement should be short (a few sentences), specific to the environment, and not borrowed from other plans or documents.

A vision statement can provide a clear reminder to people about the reasons why the EMP is important. The best vision statements are brief and inspirational, motivating readers to support the plan and participate in its implementation. When people ask, "why implement this plan?" the answer should be evident in the vision statement.

The following vision for the imaginary Grand Lake First Nation shows what an EMP vision statement might contain.

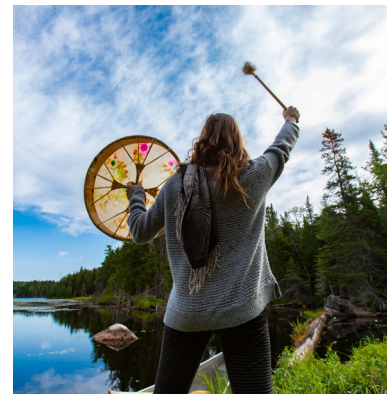
### Example: Vision of Grand Lake First Nation Environment



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The grasslands and forests on Grand Lake First Nation reserves support thriving ecosystems with healthy populations of birds and other wildlife. Our streams and lakes are clear, and their waters sustain fish, other aquatic creatures, and wildlife. These lands and waters nourish our people and maintain our culture.

Businesses are thriving because they recognize the importance of a healthy environment. Housing and institutional development is planned, built, and operated in ways that minimize adverse impacts on land, water, and air. The effects of a changing climate are considered in development decisions.

Grand Lake members understand the importance of the environment to our culture and everyday lives. We strive to minimize adverse environmental effects of our activities. We are committed to protecting the vigour of habitats and the beauty of our lands and waters.

## Engaging the Community Effectively During EMP Preparation

It is crucial that the community be involved throughout preparation and implementation of an EMP. During preparation of the EMP, community members and businesses can bring valuable information and insights to the planning program. When the EMP has been adopted, the parties must understand and support environmental management and land governance. It has been said that without involvement there is no commitment, so potentially affected groups must be involved in preparing the EMP.

As Land Codes are prepared, operational First Nations gain experience organizing community meetings, explaining complex information, and eliciting input from members. A First Nation should use engagement techniques that proved effective for reaching community members to explain why an EMP is needed, obtain input on environmental issues and responses, and build support for adopting and implementing the EMP.

First Nations typically use community meetings, workshops, open houses, and surveys to engage members in preparing their EMPs. Group-specific meetings (e.g., youth, Elders, businesses) also have been useful.

Community meetings can be especially valuable at two stages:

1. at the start of the EMP process (to allow the community to learn about EMPs and to identify environmental issues), and
2. when a draft plan has been prepared (to review and ensure the community supports the proposed policies, laws, and other responses to environmental issues).

It is important to understand what can be legitimately sought from First Nations' membership (values, experience, observations, general direction) and what should be obtained from other parties and methods (data collection, technical analysis, organizing and writing the plan, developing policies, etc.).

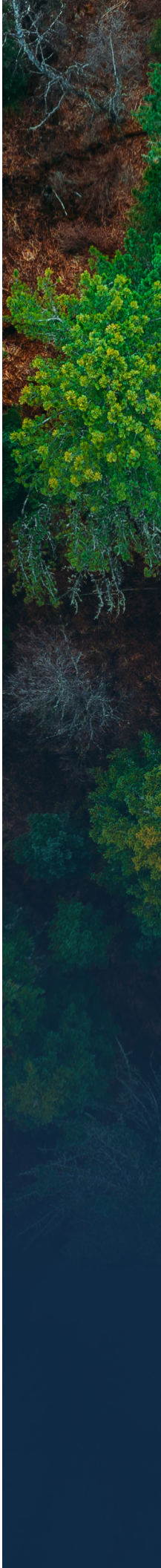
## Traditional Knowledge

The Assembly of First Nations website defines Traditional Knowledge as:

***"...knowledge owned by Indigenous peoples which differs from nation to nation and is a key component to their culture. [It] has traditionally been protected by the community on a collective basis and is subject to the context in which it is being used."***



**Because an EMP will be a public document, a First Nation should ensure that confidential Traditional Knowledge is not compromised by preparation or release of the EMP.**



First Nations should consider the following points when determining how to manage issues associated with Traditional Knowledge:

- Cultural features or activity areas that are considered sensitive or vulnerable to disturbance should not be shown on published maps. An EMP can create policies and management strategies that do not put the integrity of such sites at risk.
- An EMP does not require preparation of a Traditional Use Study (TUS) or similar examination of cultural features, and neither should an EMP be considered equivalent to a TUS. However, if such cultural research has been prepared for other projects and is available for examination, it should be reviewed during preparation of the EMP.
- An EMP's implementation section may call for future cultural studies that would fill gaps, increase understanding of cultural features, and guide management actions. TUS, archaeological, or other cultural studies can be challenging and costly to prepare. Such studies are often conducted in support of EAs of major projects affecting First Nations land. The EA section of an EMP may specify that cultural effects of proposed projects should be included in the scope and design of assessments.

Each First Nation preparing an EMP should determine how it wishes to handle the issue of Traditional Knowledge, Elder involvement, and management and protection of culturally important areas and activities.

### STEP 3: Prepare the draft EMP



#### Identify Topics and Issues

**Organize issues by topic.** Through the foregoing data collection, analysis, and community engagement, a First Nation should determine what environmental issues need to be addressed in the EMP. This list of topics must include the two requirements of the Framework Agreement-- environmental assessment and environmental protection. Most First Nations list the identified environmental issues under headings naming major topics or categories. Such organization can make it easier for readers to find specific issues and to understand the relationships among related issues.

Examples of EMP content can be seen in the Table of Contents presented in Appendix B.



**Be specific.** Environmental issues should be described in specific terms, and identify causes, not just symptoms. Thorough descriptions will be helpful in developing responses to correct the root causes of environmental problems.

For example, instead of describing an issue as “Poor water quality,” it is better to say, “*Discharge of oil-contaminated runoff into Jones Creek during heavy rainfall.*”

Examples of environmental issues contained in EMPs are:

- Risk of fuel spills from storage tanks or from trains or highways crossing a reserve,
- Contaminated runoff from industrial or agricultural operations,
- Invasive species (plants or animals),
- Electromagnetic fields from transmission lines,
- Poor solid waste management, resulting in human health risks or reduced community aesthetics,
- Air quality effects of wood stoves, industrial emissions, and transportation, including dust from roads and construction,
- Effects of groundwater contamination on drinking water quality,
- Reduced fish or wildlife habitat quality caused by human activity,
- Effects of flooding or increased risk of flooding on communities and businesses,
- Increased risk of “interface fires” where housing encroaches on forests,
- Health and other effects of inadequate liquid waste management,
- Poor water quality (surface or groundwater) caused by on-reserve or off-reserve human actions,
- Soil erosion effects on land productivity, or slope stability risks to public safety,
- Dumping of contaminated soil on reserves,
- Pest issues (e.g., rats in landfills, flies from agricultural operations, mosquitoes) or
- Land development that does not adequately consider or protect the environment.

This list provides only a limited sample of the hundreds of potential environmental issues that may affect reserves.





**Limit the number of issues.** The number of issues to be included in the EMP should be kept within reasonable limits. Many concerns may be identified by the parties involved in the EMP, but not all of them are necessarily environmental issues or suitable for inclusion in the document. It may be possible to combine related issues into a single item, or to deal with issues in other ways (such as a simple change in members' behaviour or cleanup of a small area of dumped rubbish).

As a guideline, a First Nation should strive to keep the number of issues in an EMP between, say, five and twenty. Of course, a First Nation can identify as many issues as it wishes in an EMP, though as the number of environmental issues grows, the effort required to manage them and the associated costs also rise.

### Consider Climate Change

Human-caused change in the Earth's climate is one of the most challenging—and widely publicized—environmental issues we face. It is also one of the most difficult to resolve because of society's profound dependence on fossil fuels, resistance to change (by both individuals and institutions), and the global and long-term nature of the problem.

In producing an EMP, a First Nation should make sure to consider climate. If the community decides climate change is important, the EMP should identify how climate change affects the community and the environment, and propose ways to adapt to effects of climate change. The plan also may recommend ways to reduce our contributions to climate change by cutting greenhouse gas generation and emissions or seeking ways to absorb carbon via tree planting or other measures. It may be best to identify how climate change influences other environmental issues identified in the EMP (e.g., water, wildlife, fisheries), although it could be presented as a separate issue.

### Off-Reserve Environmental Issues

Although EMPs focus on on-reserve issues, it is not uncommon for off-reserve conditions or human actions to affect the reserve's land, air, or water. Examples of such cross-boundary issues include air emissions from industry or rail traffic, groundwater or surface water contamination from agriculture or commercial activity, and flooding resulting from poor "upstream" drainage management practices.

The Framework Agreement grants First Nations authority to manage reserve lands and environment, but a First Nation's laws and regulations cannot be enforced off-reserve. An EMP, nonetheless, can address off-reserve issues in several ways, including:

- Documenting that an on-reserve environmental issue is likely caused by off-reserve activities,
- Identifying the agencies involved in regulating the off-reserve activity (e.g., municipalities or provincial environmental and health departments), and
- Calling for dialog between the First Nation, the off-reserve regulator, and, potentially, the person or company causing the environmental issue to develop a suitable response.

If off-reserve developments are anticipated to affect environmental conditions on reserve, then an EMP should identify those potential effects and recommend suitable responses.

Canada, provinces, or local governments may be responsible for regulating off-reserve land uses, so those bodies may need to participate in discussions of how to control harmful activities. A First Nation should invite regulators of off-reserve lands or waters to be involved in preparing the EMP. Through building these relationships, a First Nation will be in a better position to resolve environmental issues caused by off-reserve activities.

### **Develop Appropriate Responses to Identified Environmental Issues**

It is not enough to identify problems in an EMP. Solutions, too, need to be proposed. After preparing a list of issues, a First Nation and its technical advisors should determine how best to respond to each issue.

**Potential responses.** The following responses should be considered for each identified environmental issue:

- Adopt policies, which might identify how Band services will be delivered or how members are expected to behave with regard to the environment,
- Apply accepted government or industry guidelines or standards (for, say air or water quality or fuel storage),
- Adopt best management practices or standard operating procedures, typically applied to such activities as operation of sewer and water systems, construction methods, solid waste management, and agricultural operations,
- Apply traditional knowledge or practices in ways that avoid or reduce identified environmental problems,
- Use education and outreach to explain the EMP policies, actions, and expected changes in behaviour to correct environmental problems, and
- Draft laws for issues requiring the ability to enforce compliance and as required by the Framework Agreement. The EMP should outline the purpose and goals of proposed laws. Remember to follow the law-making procedures outlined in your land code.

The responses prepared by a First Nation will depend on the nature of the environmental issues, environmental or human health risks, willingness of community members to accept proposed responses, and capacity of the First Nation to take selected actions. Usually more than one response will be needed to address a specific issue. A First Nation should consider the definitions, benefits, and limitations of available responses to be included in the EMP (Figure 4).



Figure 4. Potential Responses to Environmental Issues

| Tool                            | Definition  | Benefits  | Limitations  |
|---------------------------------|---|---|--|
| <b>Policies and Programs</b>    | Specific method or course of action to guide government                 | <ul style="list-style-type: none"> <li>• Flexible</li> <li>• Easy to draft</li> <li>• Easily amended</li> </ul>   | <ul style="list-style-type: none"> <li>• Not legally enforceable</li> <li>• Should be consistent with other policies and programs</li> </ul> |
| <b>Guidelines and BMPs</b>      | A set of instructions offering clear direction to minimize impacts      | <ul style="list-style-type: none"> <li>• Provides clear direction for proper conduction of tasks</li> </ul>   | <ul style="list-style-type: none"> <li>• Not legally binding</li> <li>• Can become complex</li> </ul>  |
| <b>Monitoring and Reporting</b> | Collection and reporting of information on environmental quality        | <ul style="list-style-type: none"> <li>• Establishes a baseline</li> <li>• Tracks change</li> </ul>   | <ul style="list-style-type: none"> <li>• Long-term commitment is needed</li> <li>• May be difficult to interpret results</li> </ul>          |
| <b>Engagement and Education</b> | Communication of knowledge to improve awareness of issues and responses | <ul style="list-style-type: none"> <li>• Can result in positive change in attitudes and actions</li> <li>• Adaptable</li> </ul>                                   | <ul style="list-style-type: none"> <li>• Not enforceable</li> <li>• Requires a thorough outreach program</li> </ul>                          |
| <b>Laws and Regulations</b>     | An enforceable direction designed to achieve uniform compliance         | <ul style="list-style-type: none"> <li>• Enforceable</li> <li>• Authorized by the Framework Agreement and Land Code</li> <li>• Helpful where necessary</li> </ul> | <ul style="list-style-type: none"> <li>• Costly to draft, implement and enforce</li> <li>• may be difficult to amend</li> </ul>              |

### The Role of Laws in Environmental Management

It is important to note that an EMP is a plan, not a law, and therefore an EMP cannot be enforced. The EMP, however, should specify the laws necessary to achieve a community's environmental goals and to comply with the Framework Agreement.

The Framework Agreement anticipates the need to enforce environmental protection laws and establishes a baseline for standards and punishments. Sec. 24.3 says that a First Nation's environmental protection laws and punishments must have at least the same effect as provincial laws. This way, First Nation's lands receive protection from contamination equivalent to the lands just outside reserve boundaries.

First Nations should be aware that a regulation is a rule or procedure associated with a law. Hence, a regulation is not a "stand alone" response to an issue. EMPs should recommend using regulations if they are linked to an environmental law that a First Nation will enact.

**If an EMP contemplates making environmental regulations, there should be clarity on which existing or future First Nation law authorizes making those regulations.**



First Nations regularly ask about reasonable and effective ways of enforcing their environmental laws and adjudicating violations. First Nations across Canada have adopted a variety of approaches to law enforcement and adjudication. This guide provides only general information on the topic.

Unless a First Nation has already formulated methods of enforcing its laws, the EMP need not specify such actions. Rather, the EMP can declare that a First Nation will develop an enforcement and adjudication regime at a later date as its laws are being developed.

**Maximize compliance.** It is recommended that an EMP include strategies and systems to ensure voluntary compliance with the First Nation’s environmental objectives without relying too heavily on enforcement in the courts which can be expensive, slow, and sometimes harms relationships among the litigating parties (which can be particularly unpleasant if First Nations members are litigants). To achieve an EMP’s goals, First Nations may wish to consider the actions described in Figure 3.

Going to court should be a last resort. A First Nation may use the EMP to specify the general approach to enforcing environmental laws.

**Standard Operating Procedures and Best Management Practices.** In addressing technical environmental topics (such as fuel storage tanks or wastewater systems), some EMPs include Standard Operating Procedures (SOPs). Such SOPs identify whether an issue requires adherence to a regulation (provincial or federal) involving a “must do” checklist of actions.

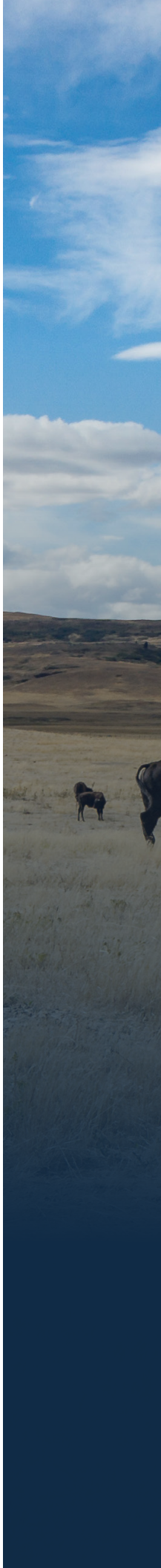


Figure 5: Ways to foster compliance with laws



### Make compliance easy

- Implement appropriate and accessible ways to address environmental issues. For example, conducting hazardous waste collection days to help avoid illegal dumping, contamination, and the improper storage and disposal of hazardous wastes.
- When someone applies for a permit, explain what is required to comply with the First Nation's regulations.



### Education and persuasion

- Use information booths, presentations, handouts, and social media to communicate why an action is needed to protect the environment and the consequences of noncompliance (e.g. consequences to the community, the environment, and the offender).
- Use incentive programs to encourage desired behaviours and voluntary participation. For example, use prizes, vouchers, credits and public recognition to promote participation in a new recycling program.



### Verbal and written warnings

- Establish a system of progressive action where expected behaviours and consequences are clearly communicated. For example, providing verbal warnings to those who are improperly disposing of waste materials and issuing written warnings when compliance does not approve.



### Administrative measures

- Develop permitting processes that are straightforward, managed in a timely fashion and not cost prohibitive. For example, a permitting process could be used to ensure that only clean soil and fill materials are being deposited on First Nation Land.
- Develop strong record keeping mechanisms to track permitted activities, noncompliance, and results of inspections.



### Mediation and dispute resolution

- Use communication and collaboration to resolve conflict and develop solutions that are fair and appropriate.
- Promote healing by using methods such as restorative justice and healing circles.



### Traditional cultural measures

- Encourage Elders to explain the value of maintaining a clean and productive environment during meetings with other members.
- Seek opportunities during celebrations or other cultural activities to remind members about the importance of complying with the First Nation's laws.

For topics that are less technical or that are not directly subject to regulation (such as farming or tree removal), Best Management Practices (BMPs) can be used to describe accepted approaches to a specific issue. The technical detail and length of SOPs and BMPs can impair the readability of an EMP, a problem that can be avoided by placing such sections in appendices or separate documents.

### **Create First Nation-Appropriate Laws and Policies**

A First Nation needs to be able to effectively respond to environmental issues on reserves. Creating policies, laws, and administrative structures that reflect a First Nation's circumstances and capacity facilitate implementation, benefiting the environment, strengthening local authority, and increasing community confidence in the First Nations' governance.

A First Nation can develop as many environmental laws as it considers necessary. Two laws, however, are required by the Framework Agreement, environmental protection (EP) and environmental assessment (EA). These two laws are specified to support implementation of the EP and EA "regimes" that will include policies and other measures. Figure 6 summarizes some of the basic parameters of EP and EA laws.

### **Considerations Before Adopting Laws of Other Jurisdictions**

It may be tempting to adopt the laws or related approaches developed by provincial or federal governments, but First Nations should be aware of potential drawbacks of this approach. Environmental laws drafted to meet the needs of a First Nation will differ substantially from those prepared for other governments. Provincial and federal laws and administrative systems:

- are designed for very large areas (provinces or Canada), not for reserves, and may not capture First Nation-specific environmental issues,
- require substantial bureaucracies and many staff to administer,
- can be amended by provincial or federal governments without First Nation involvement, and
- have dubious effectiveness in environmental management and protection.

First Nations developed the Framework Agreement and their Land Codes so that they can manage their land and environment; goals that may be inconsistent with adopting other governments' laws and regulatory regimes.

Adopting another jurisdiction's law does not relieve a First Nation of the need to draft a law. The First Nation would need to a law to allow "adoption by reference" of the other law and to define appropriate enforcement and adjudication procedures.

### **Engage Other Parties**

A First Nation should consult with other First Nations, government officials, and agencies as it develops responses to environmental issues. Staff of nearby municipalities may have experience managing such issues as water quality, solid waste management, or land development that could be adapted for use on a First Nation's land. Provincial

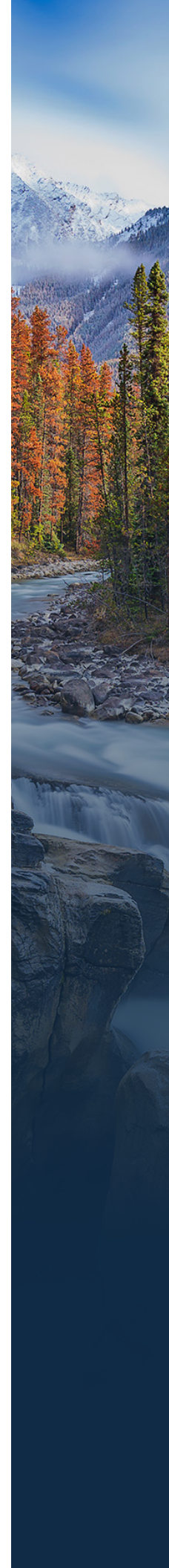



Figure 6. Environmental Protection and Environmental Assessment Laws

| Environmental Protection Law   | Environmental Assessment Law   |
|--|--|
| <p><b>Environmental Protection (EP)</b> is the effort made to identify, remediate and prevent contamination of soil, water and air, and to reduce associated risks to environmental and human health and safety.</p> <p>The Framework Agreement requires that First Nations develop an EP law that meets or beats Provincial standards and penalties.</p> <p><b>An EP Law:</b></p> <ul style="list-style-type: none"> <li>• Specifies standards or criteria that determine acceptable levels of potential contaminants to avoid harm to human health of the environment.</li> <li>• Regulates activities that could cause contamination on reserves.</li> </ul>  | <p><b>Environmental Assessment (EA)</b> identifies the potential environmental, social, and cultural effects of proposed projects before projects are built.</p> <p>A First Nation's EA regime should be consistent with federal EA laws. An EA will be conducted for projects proposed or approved by First Nations.</p> <p><b>An EA Law:</b></p> <ul style="list-style-type: none"> <li>• Specifies the environmental (including socioeconomic and cultural) impacts of proposed projects.</li> <li>• Proposes mitigation measures to avoid or reduce impacts.</li> <li>• Typically includes community engagement.</li> <li>• Supports decisions made by the First Nation about whether to approve a project.</li> </ul> |

or federal agencies, too, may suggest ways of dealing with identified environmental issues. Non-governmental and nonprofit environmental organizations often have expertise and knowledge relevant to EMPs, and such groups are increasingly interested in collaborating with First Nations.

The experience of other First Nations may be relevant to developing and implementing responses to environmental issues.

Involving other agencies and organizations during the development of the EMP may help build relationships that will prove valuable as the plan is implemented.

### Ensure the EMP Contains Appropriate Levels of Detail

EMPs provide an opportunity to establish goals and objectives for environmental quality, organize and clarify First Nations' environmental issues, and specify future actions to be taken. Too much detail may create large and complex documents, confuse the reader, and distract from the gist of the plan.

An EMP should be a brief document that communicates the First Nation's environmental management program to members, businesses, and other governments. Details that support the EMP may be placed in appendices that can be separated from the plan itself.

Though there is no “right” or “wrong” EMP content, the following considerations may be helpful. As a plan, an EMP should be considered a “road map” to future actions. The document should be clear and readable, avoiding technical jargon, “legalese”, or excessive detail. Formats should be chosen that facilitate readers’ understanding and use of the EMP. Long documents discourage readers and make it difficult to find key information. Lengthy plans also are time-consuming and expensive to prepare, review, and publish. In most cases, short EMPs (less than 100 pages) are more accessible and useful than long documents.

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## Preparing an EMP’s Implementation Section

### **Why include an implementation section?**

An EMP only improves environmental and community conditions if it is effectively implemented. The plan will not implement itself, so the document needs to explain how the parties to the plan will turn words into results that will achieve the First Nation’s environmental goals.

### **What Should an EMP Say about Implementation?**

An EMP should be an implementation-focused document. The EMP’s content and presentation should facilitate implementation by answering the following questions:

- What needs to be done?
- When will these actions occur and in what sequence?
- Who is responsible for the actions?

What are the benefits of the implementation section? A clear and complete EMP implementation section provides a variety of benefits, including:

- guiding a First Nation’s staff in preparing annual work plans and budgets,
- aiding Chief and Council in understanding and tracking EMP actions and allocating resources needed to achieve stated environmental goals, and
- showing First Nations members, businesses, and other governments that a First Nation intends to implement the EMP and helping the parties to coordinate their activities to accommodate or support the stated schedule.

**Plans are only useful if they are implemented.**



**Commitment.** To make sure that the effort expended in preparing an EMP is not wasted, a First Nation needs to commit to an active—and long term—implementation program. Implementation begins with adoption of the EMP and continues until a First Nation’s environmental goals and objectives are met, which could be a very long time.

The implementation section of an EMP should lay out the steps, schedule, and responsibilities for each of the actions needed to respond to environmental issues. The community members and leadership should be provided with a clear understanding of what will occur, and when.

**Identify additional studies.** For some issues, further study beyond the EMP may be required to identify the extent or nature of an issue or to determine the best response. In such cases, the EMP implementation section should specify investigations to be conducted before a response to the issue itself can be prepared. For example, if only a Phase I ESA was prepared before a Land Code was adopted, a First Nation may not know the extent of potential contamination on a reserve. In response, the EMP may recommend that a Phase II or III ESA be completed to support future decisions about remediation or other actions. The implementation section should describe these steps, timing, and responsible parties.

**Specify responsibilities.** The responses to the environmental issues identified in the EMP should be capable of being implemented by the First Nation or another responsible party. First Nations departments or staff positions should be assigned responsibility for each response to an environmental issue. If organizations other than the First Nation are identified as responsible for actions, those parties need to be contacted during preparation of the EMP to discuss and confirm their roles in implementation.

**Support work planning.** An EMP’s implementation section can guide annual work planning. Land Governance Directors or other staff should refer to the EMP when preparing operational plans and budgets, allocating staff time, or applying for project funding. A schedule of activities associated with the entire plan can help a First Nation organize work programs to suit its financial capacity and staff availability.

**Performance monitoring.** By laying out the EMP actions, timelines, and responsibilities, the implementation section provides a basis for monitoring a First Nation’s progress in implementing specified actions and attaining environmental goals.

**Funding applications.** The EMP implementation section can support applications for environmental management funding. For example, the Resource Centre considers an EMP’s implementation section when reviewing First Nations’ applications for financial support for





implementing the plans. Other funders, too, may see the EMP’s implementation section as important evidence that a First Nation has carefully considered and organized its approach to achieving specified environmental goals.

**How much detail?** The level of detail included in an EMP’s implementation section varies among First Nations. An EMP is intended to be a long-term, multi-year document that guides a First Nation’s environmental actions toward identified goals. The implementation section of the EMP should be consistent with the plan’s general character and detail. For instance, if the EMP is general in character, the implementation section should be general. If the plan is detailed, implementation steps should be similarly detailed.

As a general guide, actions that change frequently (staff assignments, annual budgets, very specific tasks) are best included in separate work plans or detailed implementation plans.

**Schedule and sequence.** The EMP’s implementation section should include a schedule showing the timing and sequence of each identified action over a specified period (typically five years following EMP adoption). The schedule should show which actions need to be taken first, either because the issues are more pressing or because the actions provide groundwork for later steps.

This sequence of events does not represent importance or priority. Only important issues should be contained in an EMP, so describing some issues as “high priority” or “low priority” may be misleading.

**Example schedules.** Two tables are provided as examples of how to present tasks and times associated with environmental management actions. The “Table Format” example (Figure 5) uses text to indicate the start and finish schedules, whereas the “Timeline” example (Figure 6) shows schedules graphically. There are many other ways to organize this information. Of course, it is up to each First Nation to determine the content and method of communicating how its EMP will be implemented.

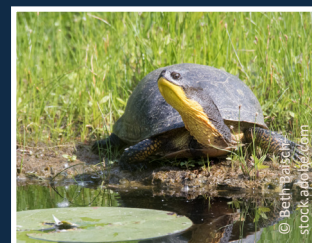
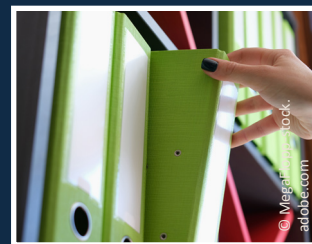


Figure 7. Example Implementation Plan (Table Format)

| ACTION  | TYPE OF ACTION        | DELIVERABLES OR RESULTS  | RESPONSIBILITY    |                          | COST RANGE       | SCHEDULE          |        |         |
|---|-----------------------|--|-------------------|--------------------------|------------------|-------------------|--------|---------|
|   |                       |  | Primary           | Support                  |                  | Frequency         | Start  | Finish  |
| <b>Topic:</b> Aquatic systems <b>Issue:</b> Poor water quality in streams and lakes |                       |  |                   |                          |                  |                   |        |         |
| A1. Monitor streams, lakes<br><br>A2. Control water pollution                       | Field program         | Water quality baseline data. Track changes in water quality over time. | Lands Dept. Staff | Consultants and labs     | Moderate         | Quarterly         | Year 1 | Ongoing |
|   | Adopt law, guidelines | Establish regulatory requirements and standards to be met              | Admin. Staff      | Legal counsel            | Moderate         | One-time          | Year 1 | Year 1  |
|   | Outreach              | Educate businesses and members about maintaining water quality         | Lands Dept. Staff | Staff                    | Low              | Annual            | Year 1 | Ongoing |
|   | Capital works         | Install and maintain oil separators, rain gardens, and drainage swales | Works Dept. Staff | Consultants, contractors | Moderate         | Annual            | Year 2 | Ongoing |
| <b>Topic:</b> Natural lands <b>Issue:</b> Loss and degradation of wildlife habitat  |                       |  |                   |                          |                  |                   |        |         |
| N1. Protect habitat of valued and at-risk species                                   | Control development   | Require habitat surveys before approving development plans             | Lands Dept. Staff | Developer, consultants   | Low              | As needed         | Year 1 | Ongoing |
|   | Outreach              | Explain need to protect species and habitat to members, developers     | Lands Dept. Staff | Staff                    | Low              | Annual, as needed | Year 1 | Ongoing |
|   | Field program         | Restore habitat of valued and at-risk species                          | Lands Dept. Staff | Consultants, contractors | Moderate to high | Annual            | Year 2 | Year 5  |



Figure 8. Example Implementation Plan (Timeline Format)

| ACTION  | TYPE OF ACTION        | DELIVERABLES OR RESULTS  | RESPONSIBILITY    |                          | COST RANGE       |
|---|-----------------------|--|-------------------|--------------------------|------------------|
|   |                       |  | Primary           | Support                  |                  |
| <b>Topic:</b> Aquatic systems                     |                       | <b>Issue:</b> Poor water quality in streams and lakes                  |                   |                          |                  |
| A1. Monitor streams, lakes                        | Field program         | Water quality baseline data. Track changes in water quality over time. | Lands Dept. Staff | Consultants and labs     | Moderate         |
| A2. Control water pollution                       | Adopt law, guidelines | Establish regulatory requirements and standards to be met              | Admin. Staff      | Legal counsel            | Moderate         |
|   | Outreach              | Educate businesses and members about maintaining water quality         | Lands Dept. Staff | Staff                    | Low              |
|   | Capital works         | Install and maintain oil separators, rain gardens, and drainage swales | Works Dept. Staff | Consultants, contractors | Moderate         |
| <b>Topic:</b> Natural lands                       |                       | <b>Issue:</b> Loss and degradation of wildlife habitat                 |                   |                          |                  |
| N1. Protect habitat of valued and at-risk species | Control development   | Require habitat surveys before approving development plans             | Lands Dept. Staff | Developer, consultants   | Low              |
|   | Outreach              | Explain need to protect species and habitat to members, developers     | Lands Dept. Staff | Staff                    | Low              |
|   | Field program         | Restore habitat of valued and at-risk species                          | Lands Dept. Staff | Consultants, contractors | Moderate to high |

## STEP 4: Review and Finalize the EMP

After a draft EMP has been prepared, it is time to discuss the document with the community and make necessary adjustments before the plan is referred to Chief and Council.

A First Nation should present the draft EMP to the membership for review and discussion. Draft EMPs are often complex documents that contain many recommendations for future action. It is important to clearly convey the plan's content to First Nation members and others that could be affected by the plan's provisions. Many First Nations use community meetings or open houses to allow presentation of the EMP and discussion of members' questions and comments.

The First Nation's Lands Committee or Environment Committee should engage in detailed discussion and review of the draft EMP. These committees are typically involved in preparing EMPs and will support

|  | YEAR 1 |        |        |        | YEAR 2 |        |        |        | YEAR 3 |        |        |        | YEAR 4 |        |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|  | Spring | Summer | Fall   | Winter | Spring | Summer | Fall   | Winter | Spring | Summer | Fall   | Winter | Spring | Summer |
|  | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   |
|  |        | Green  |        | Green  |        |        |        |        |        |        |        |        |        |        |
|  |        |        | Yellow |        |        |        | Yellow |        |        |        | Yellow |        |        |        |
|  |        |        |        |        |        | Brown  | Brown  |        |        | Brown  |        |        |        | Brown  |
|  | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   | Blue   |
|  |        |        | Yellow |        |        |        | Yellow |        |        |        | Yellow |        |        |        |
|  |        |        |        |        | Green  | Green  |        |        | Green  | Green  |        |        | Green  | Green  |

implementation, so they may have substantive comments on the plan’s content and presentation.

The Resource Centre often assists with technical review of draft EMPs. First Nations receiving funding from the Resource Centre for EMP development are required to submit the draft EMP for review as a condition of the funding agreement.

These reviews include discussions between the First Nation, its consultant, and Resource Centre staff, covering the plan’s content, clarity, format, and the process for community and Council review. The Resource Centre may suggest edits to the draft for consideration by the First Nation.

## STEP 5: Adopt and implement the EMP

When the EMP has been revised to respond to community concerns and is considered complete by a First Nation's advisory committee(s), it is probably ready to be adopted. Chief and Council typically adopt the EMP by formal vote at a duly convened meeting. A less common course of action is to ask the membership to vote on the EMP, either at a community meeting or via a more formal ballot.

Regardless of the adoption method used, a First Nation should ensure that the EMP is formally endorsed by the community and Council. Such recognition will increase the plan's legitimacy as a guide to future actions and expenditures, and will reinforce a First Nation's authority to govern its lands and resources.

For First Nations who are receiving funding from the Resource Centre for EMP development, submission of the final, adopted EMP is the concluding requirement. As the EMP nears adoption, a plan for communicating the plan to others should be prepared. This brief plan should specify who the First Nation wishes to reach, methods to be used, and who will be responsible (the First Nation or its EMP consultant).

### First Steps in EMP Implementation

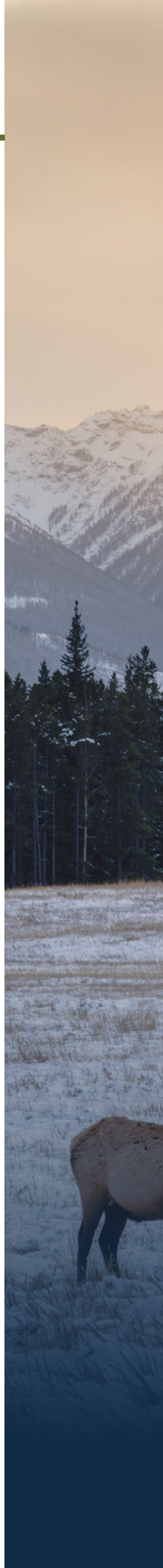
Get the word out. As soon as the EMP is adopted, the First Nation should implement its communications plan to make sure that others know about the EMP has been adopted. This communication is important for several reasons:

- The EMP can show other governments, regulators, and others that the First Nation is actively exercising its authority to govern its lands,
- Members and businesses must fully understand the plan and its content before they can be expected to comply with the new policies, laws, and regulations,
- By building community understanding of, and support for, the EMP, Chief and Council can more confidently implement the plan, and
- Businesses and developers that are active on reserves or that propose development on reserves should understand the environmental priorities, goals, and procedures established by the First Nation.

### **This is not another review of the EMP, but a celebration of the final EMP.**

Presentation at a community meeting should be cause for celebration, because the EMP is a milestone in First Nations governance and is the culmination of substantial effort to set directions for improving environmental quality. A celebratory meeting also marks the transition from plan preparation to implementation and is an opportunity to remind the community about the hard work yet to come.

Communication methods should be selected that suit the target audience. For instance, to reach the entire community, a meeting or open house might be best. For specific groups, such as Elders or youth, smaller sessions often work well. To reach other governments or businesses, written communication or one-on-one meetings may be appropriate.



A First Nation may consider preparing a brochure or similar brief summary of the EMP. Such a concise document announces the plan and summarizes its main themes. For some audiences, such summary information may be all they need to know about the plan. The summary should provide the reader with instructions for obtaining more detail if desired.

Some First Nations have found that educating school children about environmental management not only builds support among youth, but also influences parents. Explaining the EMP purpose and content in school classrooms or in First Nations youth groups can bring wide benefits.

**Draft environmental laws.** Early in the implementation stage, a First Nation will need to draft laws as part of the environmental assessment and environmental protection regimes specified in the Framework Agreement. Many EMPs also identify other laws to be adopted as part of an effective response. Remember to follow the law-making procedures outlined in your land code.

First Nation staff and consultants should meet with the First Nation's legal counsel to explain in detail what the laws are intended to achieve and to explain concerns raised during preparation of the EMP. The laws to be drafted should respond to the environmental issues identified in the EMP, be enforceable, be understandable by First Nations' membership, and be functional in court.

The lawyer should review environmental laws adopted by other First Nations and those adopted by local governments and provinces. The approaches taken by others may be adapted for a First Nation's purposes. Care must be taken, however, to not just adopt a law from another jurisdiction because of convenience or precedent. Such laws may be inappropriate for local circumstances, ineffective, excessively bureaucratic, or expensive to enforce.

It is usually wise to avoid creating laws on reserve that create substantially different legal requirements (either more permissive or more restrictive) than prevail in surrounding communities. Nonetheless, it is more important to have laws that meet the needs and circumstances of a First Nation than to be consistent with neighbours' laws.

### **Long Term Implementation**

Implementing the EMP will be a long-term, multi-year endeavor, as should be shown in an EMP's implementation schedule. After a First Nation adopts its EMP, the First Nation's Lands or Environment Manager should develop a detailed annual (or multi-year) work plan for EMP implementation that includes specific staff assignments, deliverables, schedules, salaries, expenses, and funding sources. The detailed work plan should consider:

- Availability and training needs of First Nations staff to be involved in EMP implementation,
- Appropriate seasons for outdoor activities such as environmental monitoring or in-stream work,
- Fiscal year budget and reporting requirements,

- Time needed to organize collaborations with other governments or to hire consultants or lawyers to be involved in implementation, and
- Availability of resources needed to take the actions specified in the work plan.

The estimated cost of implementation will need to be consistent with funds available in each budget year. Federal and provincial governments occasionally announce funds for specific purposes. If these funding opportunities are consistent with EMP actions, a First Nation needs to be ready to submit an application to the relevant agency, often on short notice.

### **EMP Implementation Tips**

Here are a few tips for implementing an EMP to ensure the plan's goals are achieved.

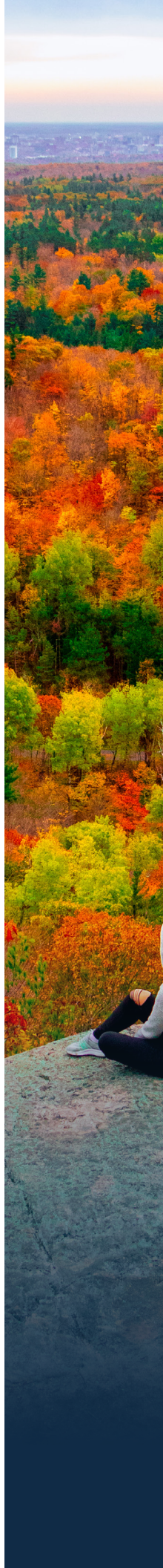
- a. Assign responsibility. The Lands Governance Director or some other First Nation staff member needs to be assigned overall responsibility for implementing the plan.
- b. Seek shared success through collaboration. Operational First Nations take action on many topics, including economic development, land use planning, housing, services, and training. Non-First Nations agencies also may have initiatives relevant to the EMP (e.g., fisheries enhancement, waste management, transportation). If the goals of those initiatives are consistent with the EMP's, collaborating with those responsible departments and organizations could be mutually beneficial.
- c. Be prepared to adjust course. As plans are implemented, environmental conditions will change and organizational flux will occur. Staff turnover, political change, budget challenges, and other events will affect implementation of the EMP. New ways of achieving EMP goals may be identified. Be ready for these changes and be ready to adjust the implementation program accordingly.

### **Monitoring Performance and Amending the EMP**

At regular intervals (typically every five years), the EMP should be subject to monitoring and evaluation. Based on this performance review, the plan may be amended. An EMP monitoring initiative should include both (1) progress in implementing elements of the EMP and (2) progress in resolving environmental issues.

#### **1. Plan implementation activities**

- How much effort has gone into implementing the plan (staff time, consultant effort, budget allocations, purchases)?
- What activities have been conducted (meetings held, reports completed, community support attained, laws adopted, field work conducted)?
- Are the issues identified in the EMP still current (have some previous issues been resolved and new issues arisen that are not included in the plan)?
- Are the actions proposed in the EMP still relevant (laws, outreach, best management practices, etc.)?
- Have the EMP's goals and objectives been achieved?



## 2. Progress in resolving environmental issues

- Which environmental issues identified in the EMP have been resolved or improved by plan actions?
- How has the overall environmental quality of the First Nations lands changed since adoption of the EMP?
- What obstacles impede progress in resolving environmental issues and what needs to be done to improve performance?

With the monitoring results in hand, the First Nation can decide what amendments to the EMP or its implementation are needed. Although a comprehensive review should occur every five years, improvements to the plan and its implementation should occur whenever required. For example, if a new environmental issue comes to light, a First Nation need not wait until the five-year review to respond. If a new issue could have serious effects (e.g., threats to environmental or human health), a First Nation should move quickly to develop and implement a specific response.

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## Conclusion

An EMP can be valuable to First Nations in improving the quality of their lands and communities. The process of preparing an EMP can result in better understanding of conditions on First Nations lands and identification of environmental management tools for resolving recognized issues. Preparing the plan can engage the community, encourage people to think about land, water, wildlife, and other issues, and empower First Nations members to take responsibility for their environment.

An EMP's implementation section, with its schedule of actions and assignment of responsibilities, can be helpful in planning and administering work in First Nations departments. Whether by improving internal function and effectiveness of First Nations departments, building community cohesion, or communicating environmental goals and actions to external organizations, an EMP can be a valuable asset in First Nations governance.

Understanding and applying the suggestions presented in this guide can help First Nations avoid known obstacles to preparing EMPs, making the planning experience more rewarding and productive.



## **APPENDIX A: SECTIONS OF THE FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT (2022) RELATED TO ENVIRONMENTAL MANAGEMENT**

### **PART IV FIRST NATION LAW MAKING**

#### **18. LAW MAKING POWERS**

- 18.1** The council of a First Nation with a land code in force will have the power to make laws, in accordance with its land code, respecting the development, conservation, protection, management, use and possession of First Nation land and interests or land rights and licences in relation to that land. This includes laws on any matter necessary or ancillary to the making of laws in relation to First Nation land.
- 18.2** The following examples illustrate some of the First Nation laws contemplated by the Parties:
- (a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
  - (b) laws on the creation, regulation and prohibition of interests or land rights and licences in relation to First Nation land;
  - (c) laws on environmental assessment and protection;
  - (d) laws on the provision of local services in relation to First Nation land and the imposition of equitable user charges; and
  - (e) laws on the provision of services for the resolution, outside the courts, of disputes in relation to First Nation land.

### **PART V ENVIRONMENT**

#### **23. GENERAL PRINCIPLES**

- 23.1** The council of a First Nation with a land code in force will have the power to make environmental laws relating to First Nation land.
- 23.1.1** The following examples illustrate some of the First Nation environmental laws relating to First Nation land contemplated by the Parties:
- (a) laws relating to contaminants on First Nation lands;
  - (b) environmental protection requirements, including requirements in respect of natural resources, soils, water and ground water;
  - (c) environmental emergencies and natural disasters;
  - (d) conservation and heritage management requirements;
  - (e) nuisances, including noise, odours and vibrations;
  - (f) recycling, solid waste management and garbage disposal;
  - (g) unsightly premises;
  - (h) sewage and effluent discharges; and
  - (i) implementation of any provisions of a First Nation environmental management plan.
- 23.2** The Parties intend that there should be both an environmental assessment and an environmental protection regime for each First Nation.
- 23.3** The principles of these regimes are set out below.
- 23.4** The environmental assessment and protection regimes will be implemented through

First Nation laws.

- 23.5** The Parties agree to harmonize their respective environmental regimes and processes, with the involvement of the provinces or territories where they agree to participate, to promote effective and consistent environmental regimes and processes and to avoid uncertainty and duplication.

#### **24. ENVIRONMENTAL MANAGEMENT**

- 24.1** Subject to clause 27, a First Nation with a land code in force will develop an environmental protection regime, with the assistance of the appropriate federal agencies to the extent that they agree to participate.
- 24.2** Each First Nation agrees to harmonize environmental protection with the province or territory in which the First Nation is situated, where the province or territory agrees to participate.
- 24.3** The First Nation environmental protection standards and punishments will have at least the same effect as those in the laws of the province or territory in which the First Nation is situated.
- 24.4** For greater certainty, if there is an inconsistency between the provision of a federal law respecting the protection of the environment and a provision in a land code or First Nation law respecting the protection of the environment, the federal provision will prevail to the extent of any inconsistency.

#### **25. ENVIRONMENTAL ASSESSMENT**

- 25.1** Subject to clause 27, a First Nation will, with the assistance of the Lands Advisory Board and the appropriate federal agencies, make best efforts to develop an environmental assessment process within one year after the First Nation's land code comes into force, or within such longer period as the Minister and the First Nation may agree to.
- 25.2** The First Nation and the Minister will, in the individual agreement referred to in clause 6, address how to conduct the environmental assessment of projects on First Nation land during the interim period until the First Nation's environmental assessment process is developed.
- 25.3** The First Nation's environmental assessment process will be consistent with requirements of the *Canadian Environmental Assessment Act*.
- 25.4** The First Nation's environmental assessment process will be triggered in appropriate cases where the First Nation is approving, regulating, funding or undertaking a project on First Nation land. The assessment will occur as early as possible in the planning stages of the project before an irrevocable decision is made.
- 25.5** The Parties agree to use their best efforts to implement the principle that the First Nation's environmental assessment process be used where an environmental assessment of a project on First Nation land is required by the *Canadian Environmental Assessment Act*.
- 25.6** The Parties agree to develop a plan to harmonize their respective environmental assessment processes, with the involvement of the provinces or territories where they agree to participate.

#### **27. RESOURCES**

- 27.1** The Parties understand that the obligation of a First Nation to establish environmental assessment and environmental protection regimes depends on adequate financial resources and expertise being available to the First Nation.

## APPENDIX B: EXAMPLE OF EMP CONTENTS

Appendix B presents an example of EMP contents, listing the major sections and identifying the kinds of environmental issues that could be included in a plan. Each First Nation that prepares an EMP will need to identify their own individual set of important environmental issues and responses to those issues and to develop a plan format that works for them.

### (EXAMPLE) ENVIRONMENTAL MANAGEMENT PLAN CONTENTS

#### 1.0 ENVIRONMENTAL MANAGEMENT PLAN INTRODUCTION AND PROCESS

- 1.1 Purpose of the Environmental Management Plan and environmental context
- 1.2 Steps in Preparing the Environmental Management Plan
  - 1.2.1 Data collection, report review, field inspections
  - 1.2.2 Community engagement, plan review and adoption process
  - 1.2.3 Identifying environmental issues and formulating responses

#### 2.0 ENVIRONMENTAL MANAGEMENT VISION AND PLAN GOALS

- 2.1 Vision of a desirable future environment
- 2.2 Goals of environmental management

#### 3.0 ENVIRONMENTAL ISSUES AND RESPONSES

(Examples only; contents should reflect a First Nation's circumstances)

- 3.1 Environmental emergencies
  - 3.1.1 Environmental emergency issues
  - 3.1.2 Responses
- 3.2 Fuel use and storage
  - 3.2.1 Fuel use and storage issues
  - 3.2.2 Responses
- 3.3 Liquid waste treatment and disposal
  - 3.3.1 liquid waste treatment and disposal issues
  - 3.3.2 Responses
- 3.4 Solid waste management
  - 3.4.1 Solid waste management issues
  - 3.4.2 Responses
- 3.5 Fish and fish habitat protection
  - 3.5.1 Fish and fish habitat issues
  - 3.5.2 Responses
- 3.6 Protection of valued and at-risk species
  - 3.6.1 Valued species and species at risk issues
  - 3.6.2 Responses

3.7 Land and water contamination (environmental protection)

3.7.1 Land and water contamination issues

3.7.2 Responses

3.8 Agricultural practices

3.8.1 Agricultural practice issues

3.8.2 Responses

3.9 Water quality and quantity

3.9.1 Environmental issues

3.9.2 Responses

3.10 Air quality

3.10.1 Air quality issues

3.10.2 Responses

3.11 Community quality

3.11.1 Community quality issues

3.11.2 Responses

3.12 Environmental assessment

3.12.1 Environmental assessment issues

3.12.2 Responses

**4.0 PLAN IMPLEMENTATION**

4.1 Environmental governance structure (participants, roles, and responsibilities)

4.2 Implementation steps and schedule (sequence and timing of actions)

4.3 Opportunities and obstacles (e.g., capacity building, staff training, collaboration prospects, funding)

**5.0 REFERENCES**

APPENDICES (e.g., operating procedures, best management practices, supplemental information)

## APPENDIX C: USING CONSULTANTS TO PREPARE AN EMP

This section provides suggestions for selecting the right consultant to prepare an EMP and ensuring that the process and products are satisfactory for all parties. Resource Centre staff are available to assist First Nations in developing an approach to seek and retain the support of an environmental consultant.

The EMP will serve as a guide to the First Nation, so consultants must involve First Nations staff in preparing plans. Through this involvement, the First Nation will be able to understand the content and subtleties of the EMP, be more effective in implementing the plan, and be capable of answering community questions about it. As with other land management-related plans, it will be of little help if the consultant prepares the EMP in isolation, and then just delivers it to the First Nation. Such an approach creates dependency on the consultant to interpret and implement the plan, which may be profitable for the consultant, but inadvisable for the First Nation.

The remainder of this section explains the process for selecting and working with consultants to prepare an EMP.

### Prepare the Terms of Reference

**Define EMP content.** Before seeking consultant services, a First Nation should determine what they want their EMP to achieve and what it should contain. This information is typically included in a Terms of Reference for a project. When included as part of a request for consultant proposals, the Terms of Reference are sometimes called the Scope of Work.

If a First Nation has thought seriously about their environmental issues and the approach they wish to take to environmental planning and management, preparing the Terms of Reference should be relatively simple. Working through this Guide should help to define the content and approach to a First Nation's EMP.

**Describe the consultant's role.** An important element of the Terms of Reference is describing the role of the consultant in working with the First Nation. What tasks will the First Nation assign to the consultant, and which tasks will be conducted by the First Nation? What are the reporting relationships between consultant and First Nation? What role will the parties play in community involvement, data collection, and revising draft reports? The answers to these questions should be included in the Terms of Reference.

### Who should be invited to bid?

Considerations in soliciting bids. In most cases, First Nations prepare a Request for Proposals (RFP) to solicit bids from environmental planning firms to participate in the project.

To ease the work of selecting a consultant, First Nations should invite a limited number of firms to prepare proposals. If an RFP is broadcast widely (such as through government bid websites, newspaper advertising, or online sources), a large number of proposals could be received, creating a burden for staff who must review the proposals. By requesting a smaller number of qualified firms to submit proposals, the First Nation's selection process will be simpler. In

addition, preparing proposals is a time-consuming, expensive process for consultants, and it is discourteous to ask them to spend time unnecessarily. Some consultants—particularly successful firms that are already busy—may not respond if the odds of winning the work are small. Firms are more likely to answer to a direct invitation to a few selected companies, and to devote more effort to preparing proposals under such circumstances.

In some parts of Canada, it may be a challenge to identify consultants that are qualified to prepare an EMP. In these cases, it may be more important to elicit bids from any firms than to narrow the number of consultants requested to bid.

Though there are no fixed rules for how many bids should be requested, a rule of thumb is between three and five. The number of available firms may be influenced by the location of the First Nation's reserves; rural areas typically have fewer nearby firms than areas closer to urban centres.

A First Nation may identify candidate firms by asking other First Nation communities or municipalities for references of capable environmental planning firms. Professional organizations may be able to provide a list of consultants. Online web searches can help to identify firms that have prepared EMPs. Appendix D of this Guide presents web links to some of the professional organizations in Canada that could aid in identifying environmental consultants.

### **Basic Qualifications of EMP Consultants**

A First Nation should obtain the services of a consultant experienced in environmental planning and familiar with the Framework Agreement. Preparing an EMP is a specialized combination of skills that few consultants possess—even those who purport to be environmental planners. A firm that is unfamiliar with the Framework Agreement may struggle to deliver an EMP that meets the needs of an operational First Nation. Consultants should understand the authority of operational First Nations to adopt and enforce laws, as well as the limited role of the *Indian Act* in land management, development, and environmental protection. The Framework Agreement changes the responsibilities of the federal government, shifts liability for some matters to First Nations, increases the First Nation's need to exercise due diligence for development projects, and creates the vague obligation to harmonize laws. Consultants should comprehend these matters.

### **Cautions before direct awards.**

Before deciding to retain a consultant known to them, the First Nation should first confirm that the familiar firm is fully qualified to prepare an EMP. For instance, firms that conduct Environmental Site Assessments may be excellent at identifying contamination, but may not understand broader environmental concerns or how to engage communities, use traditional knowledge, develop policies, and organize a plan. If the First Nation proceeds with a "direct award" to a consultant, it is important to obtain a written work program, budget, list of deliverables, and schedule for the EMP and to sign a contract for conducting the work.

## The Importance of a Community-Specific Plan

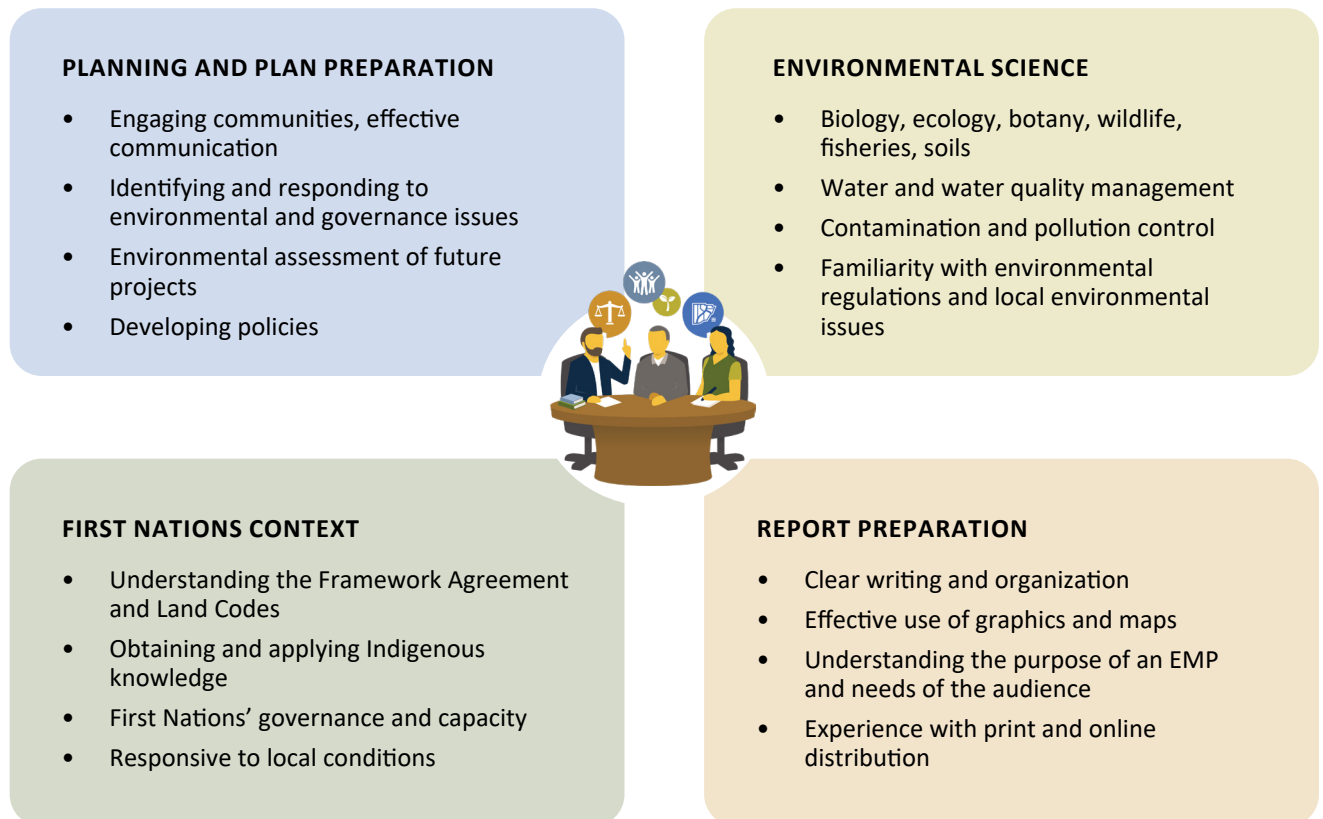
Consultants should be ready to learn about local conditions and to prepare an EMP that is specific to the community. The consultant should avoid using a “template” approach, in which methods used elsewhere are assumed to be appropriate in a new circumstance. A First Nation should ensure that the firms invited to bid on the EMP are ready to learn about local conditions and to be flexible and creative in developing responses to identified issues.

It is crucial that consultants understand that their job is to support the First Nation in preparing an EMP, and to respond to the First Nation’s direction. Consultants should recognize the capacity challenges faced by First Nations, including limited staff time, training, experience, or funding.

EMP consultants must recognize the limitations of provincial and federal government approaches to environmental management and land governance. They must prepare EMP policies and laws appropriate for the needs and capacity of the First Nation and that achieve the goals of protecting and improving environmental quality of First Nations land.

Preparing an effective EMP demands both planning and environmental skills (see figure 1). It is not enough to identify problems and concerns; the plan must develop appropriate responses and present them in ways that support future action. This “implementation focused” planning requires brevity and clarity, so that First Nations staff and membership can easily understand what will be done to address the identified environmental issues and to achieve the stated vision and goals. Consultants should be sought who understand—and can deliver—such a plan.

Figure 1. Key Consultant Competencies for Preparing an EMP



## **Preparing Consultant Requests for Proposals**

The accepted method of selecting a firm to work on a challenging project is to issue a Request for Proposals (RFP). The term “Scope of Work” (SOW) is sometimes used as a synonym for RFP, but they are not the same thing. The SOW describes the spatial and topical “scope” of the study, and specific actions expected of the consultant. An SOW is included as part of an RFP, which is an invitation to consultants to bid on a project.

An example of a potential RFP is presented in Appendix E of this guide.

## **Completing and Circulating an RFP**

Several First Nations staff should review the draft RFP to ensure that it correctly describes the nature of the work desired, is clear, and is free of errors.

The final RFP should be sent to the selected candidate firms with a request that the firms confirm receipt of the RFP. Mail, courier, or email can be used to distribute the RFPs. It is often advisable to accompany the RFP with a brief letter from the Chief, a Councillor, or Lands Governance Director addressed to the candidate firm and inviting submission of a proposal.

Within five days of receiving the RFP, bidders should be required to inform the First Nation about whether or not they will submit a proposal. (If a First Nation learns that too few firms will be bidding, it may be appropriate to invite additional firms to bid.)

In responding to questions from bidders, a First Nation should exercise care to not provide “inside information” or inaccurate answers that could skew the selection process. Governments often require questions to be submitted in writing, and responses to be circulated to all bidders. This formal approach may not be needed by a First Nation in responding to questions, but responses to consultant contacts during the bid process need to be precisely worded. All consultant questions should be routed to a single knowledgeable First Nations staff member, so that the answers provided are consistent.

## **Selecting Consultants and Managing the Subsequent Work**

Well before the proposal deadline is reached, the First Nation should plan the consultant selection process. Key participants in selecting a consultant need to be available immediately after proposals are received to avoid delays and to ensure that consensus is reached on the preferred firm.

The following steps should be followed in selecting the winning proposal.

- When proposals are delivered, they should be date-stamped. If proposals arrive by email, the digital files should be preserved to record the date and time of delivery.
- Copies of the proposals need to be provided (hard copy or digital) to those who will participate in the review. The deadline for completing reviews should be conveyed to the participants.
- It may be helpful to distribute a table containing selection criteria to guide the reviewers, and to help the reviewers to compare their perceptions of the quality of the proposals by using a common set of criteria.

## Reviewing Proposals

The following criteria may be useful in evaluating EMP proposals:

- Credentials of the study team (education and experience),
- Familiarity with EMPs or similar environmental planning documents,
- Familiarity with the Framework Agreement,
- Experience working with First Nations (particularly the specific First Nation preparing the EMP, as well as other operational First Nations),
- Understanding of local environmental issues,
- Logic and completeness of the list of tasks to be completed,
- Completeness of the list of deliverables (compared to the list in the RFP, plus other options proposed by the consultant),
- Level of involvement and proposed communication with First Nations staff,
- Nature of the community engagement proposed,
- Level of effort (number of days or hours) of qualified staff devoted to the project,
- Budget (amount, value-for-money, explanation of the basis of the estimates),
- Clarity of the proposal, which indicates the likely readability of the EMP, and
- Evidence of the quality of the consultant's work (references, examples, testimonials, etc.).

To allow each reviewer's ratings to be compared, a simple score (1 to 5, high- medium-low) should be assigned to each criterion. A scoring table (if used) should provide room for reviewers to write comments and observations.

Ideally, the reviewers should meet to discuss the proposals. When the reviewers select a preferred consultant (or a short list of finalists), one person should be assigned to contact the references provided. Questions for the referees should pertain to the quality of work, communication skills, responsiveness to First Nation needs, and other matters relevant to preparing an EMP.

### After a Preferred Consultant is Selected

The First Nation should contact the winning firm and work out administrative details of the work (billing methods, meeting dates, reporting relationships, etc.). If a First Nation is experienced and comfortable preparing contracts, the First Nation should draft an agreement containing specific requirements and conditions associated with the EMP project should be drafted for consideration by both parties. If a First Nation does not wish to prepare the contract, the consultant should be requested to draft a contract for review by the First Nation.

The contract should specify the deliverables, start and finish dates, total cost, and billing and payment procedures. The approved proposal prepared by the consultant may be appended to

the contract. The contract should contain a clause that specifies the conditions under which the project can be terminated.

When the First Nation is certain about the consultant to be hired, letters should be sent to the unsuccessful bidders. The First Nation should be prepared to provide a “debriefing” to the other firms, explaining the strengths and weakness of the proposals, and why they did not win the work.

### **Managing the Project**

Preparing an EMP should be a collaborative process between the First Nation and the consultant. Nonetheless, rigorous project management practices should apply to ensure that work is being done properly and to the satisfaction of the First Nation. If necessary, the First Nation can take corrective action and, if problems cannot be fixed, cancel a contract. Extreme measures can usually be avoided by timely tracking of the project to identify and resolve issues.

The First Nation’s project manager should obtain answers to the following questions at regular intervals as the EMP is prepared.

- Is the work proceeding as described in the proposal?
- Does the consultant communicate regularly and effectively with First Nations staff and others?
- Are the invoices clear, and are they consistent with the effort expended?
- Are the staff assigned to the project the same ones named in the proposal?
- Are changes to the work program required to respond to new circumstances? Is the consultant willing to do the work under the existing contract or is an amendment needed?
- Does the consultant obtain approval for changes before undertaking new work?
- Do the deliverables meet expectations and contract specifications?

## APPENDIX D: REGISTRIES OF ENVIRONMENTAL PROFESSIONALS IN CANADA

First Nations seeking professional assistance in preparing and implementing EMPs may wish to contact professional associations to identify firms or individuals that are registered with those organizations. In limited cases, online databases can be searched to identify people and companies with specific credentials and experience. Personnel included in consultants' EMP proposals may include professional registration as part of their credentials.

Not all provinces have licensing bodies or require membership or registration in professional organizations. In such cases, reference checks and careful review of experience and training may be helpful in determining consultant competence.

Databases and search services offered by the professional organizations change frequently. If the following links are not helpful, an online search using keywords may be necessary.

### Professional Planners:

The Canadian Institute of Planners registers professional planners across Canada.

This site lists the eleven provincial and territorial planners' institutes and associations:

<https://www.cip-icu.ca/professional-territorial-institutes-associations-ptias/>

First Nations should contact the appropriate provincial or territorial planners' organization to determine if a registry of members is available.

### Engineers and Geoscientists:

- [Engineering Institute of Canada](#)
- [Engineers and Geoscientists British Columbia](#)
- [Association of Professional Engineers and Geoscientists of Alberta \(APEGA\)](#)
- [Engineers Geoscientists Manitoba](#)
- [Engineers and Geoscientists New Brunswick](#)
- [Association of Professional Engineers and Geoscientists of Saskatchewan \(APEGS\)](#)
- [Engineers Nova Scotia](#)
- [Engineers PEI](#)
- [Engineers Yukon](#)
- [Northwest Territories and Nunavut Association of Professional Engineers and Geoscientists \(NAPEG\)](#)
- [Ordre des ingénieurs du Québec \(OIQ\)](#)
- [Professional Engineers and Geoscientists of Newfoundland and Labrador \(PEGNL\)](#)
- [Professional Engineers Ontario \(PEO\)](#)

### **Agrologists:**

- Alberta: <https://www.albertaagrologists.ca/site/find-a-member>
- British Columbia: <https://www.bcia.com/terms?destination=/registrants/registrant-information/directory-registrants>
- Manitoba: <https://agrologistsmanitoba.ca/find-an-agrologist/>
- Ontario: <https://oia.on.ca/search/custom.asp?id=5552>
- New Brunswick: <http://www.ianbia.com/>
- Nova Scotia: <https://nsagrologists.ca>
- Quebec: <https://oaq.qc.ca/>
- Saskatchewan: <https://sia.sk.ca/find-a-consultant-contractor/>

### **Biologists:**

- Alberta: <https://www.aspb.ab.ca/directory>
- British Columbia and Yukon: <https://professionalbiology.com/APB/APB/Resources/Find-a-Professional.aspx?hkey=6318e742-f100-4162-8b42-150c8cb6f59f>
- Quebec: <https://abq.qc.ca/fr/accueil>

## APPENDIX E: EXAMPLE TEMPLATE FOR A REQUEST FOR PROPOSALS TO PREPARE AN EMP

The following template is an example only. It can be used to aid First Nations in preparing a request for consultant support for EMP preparation. The blue highlighted sections are to be completed or reviewed and revised by First Nations. The template should be amended as appropriate to suit a First Nation's circumstances, needs, and desired outcomes. First Nations can contact their Land Code Governance Advisor for a downloadable and editable version.

### **Request for Proposals to prepare an Environmental Management Plan for the \_\_\_\_\_ First Nation**

Date \_\_\_\_\_

#### **Introduction and context**

The \_\_\_\_\_ First Nation invites proposals from qualified firms or individuals to prepare an Environmental Management Plan (EMP) for our reserves. The \_\_\_\_\_ First Nation governs its lands under the terms of the Framework Agreement on First Nations Land Management, and adopted a Land Code on \_\_\_\_\_, 20\_\_.

The EMP will apply to the following reserves: [Please complete this section or provide another description of lands to be included.]

- Reserve #1, covering \_\_\_ ha, is located \_\_\_\_\_. The primary land uses on Reserve #1 are \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.
- Reserve #2, covering \_\_\_ ha, is located \_\_\_\_\_. The primary land uses on Reserve #2 are \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.
- Reserve #3, covering \_\_\_ ha, is located \_\_\_\_\_. The primary land uses on Reserve #3 are \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.
- Et cetera.

Governance structure. The Chiefs and Council of the \_\_\_\_\_ First Nation will have ultimate authority to approve and adopt the EMP. The \_\_\_\_\_ First Nation Land Governance Director will be Project Administrator for preparation of the EMP, and will be supported by the Lands Committee, comprised of \_\_\_ members of the community. The Land Governance Director will be the main point of contact during preparation of the EMP, will handle administrative responsibilities, and will respond to requests for information, distribution of materials for review by the Lands Committee or others, and for reviewing, commenting on, and approving draft documents.

#### **Purpose**

The \_\_\_\_\_ First Nation's EMP is intended to satisfy the following needs of the community:

- Identify and describe issues associated with environmental quality and ecosystem health pertaining to \_\_\_\_\_ First Nation lands, waters, and air,
- Develop responses to the identified environmental issues, including specific policies and actions to be implemented,

- Engage the community in identifying and responding to environmental issues,
- Integrate traditional knowledge and cultural practices in the environmental management recommendations, as appropriate,
- Articulate a clear vision of a desired future environmental condition, with associated goals and objectives of environmental management on our lands,
- Identify the kinds of environmental laws needed,
- Express the \_\_\_\_\_ First Nation's rights and governance authority over its lands,
- Provide a strategy and schedule for future actions, which will aid in preparing work programs, budgets, funding applications, and staffing plans,
- Satisfy requirements in the Framework Agreement related to environment, and
- Create a document that communicates the \_\_\_\_\_ First Nation's environmental priorities and directions to staff, community members, other governments, businesses, and institutions.

### Available reports and other documents

The following studies, reports, and plans may be helpful in preparing the \_\_\_\_\_ First Nation's EMP, and can be made available on request:

- Phase I Environmental Site Assessment (date, areas covered)
- Maps showing .....
- List other studies or plans that may be helpful to the EMP consultant

### Scope of services

The primary work to be conducted is to determine and describe the environmental conditions, environmental management issues, and responses for \_\_\_\_\_ First Nation reserves. In preparing the EMP, the \_\_\_\_\_ First Nation requests that the selected consultant prepare, complete, and provide the following deliverables and services:

- a. Develop a detailed work program for preparing the EMP, including a detailed outline of the EMP,
- b. Communicate regularly with the Land Governance Director and on a scheduled basis with the Lands Committee on matters pertaining to the EMP,
- c. As required by the Land Governance Director, report to the Chiefs and Council on the progress and proposed content of the EMP,
- d. Design and implement a program to engage the community in identifying environmental issues and responses, preparing the EMP, and approving the draft plan,
- e. Prepare the following draft documents:
  - i. Description of environmental issues, and appropriate responses to address those issues,
  - ii. Maps showing location of environmental features and issues,
  - iii. Materials for communicating with the community, including inviting the use of community knowledge in preparing the EMP,
  - iv. One print-ready copy of the draft EMP for reproduction and review by the Lands Committee, the community, and Chief and Council, and a digital version,

- v. One print-ready copy of the Final EMP for approval by Chief and Council, and a digital version,
  - vi. Hard copy, PDF, and, if appropriate, Shape Files of maps prepared as part of the project.
- f. For purposes of the proposal, the proponent should plan on preparing for, and attending, a minimum of:
- i. One meeting with Chiefs and Council,
  - ii. Four meetings with the Lands Committee,
  - iii. Two community meetings (including presentations and engagement), and
  - iv. Two meetings with other governments and businesses.

The proposal should explain what the meetings are intended to achieve, what will be presented, and how the meetings will be conducted.

- g. The successful consultant will be expected to build understanding and capacity of \_\_\_\_\_ First Nation staff to conduct environmental management tasks and responsibilities independently, so that staff are fully prepared to implement the completed EMP. The proposal should explain how this capacity will be built.
- h. The \_\_\_\_\_ First Nation has \$\_\_\_\_\_ available to complete the EMP. The proponent's budget should not exceed this amount unless a full explanation and justification is provided.

### Selection criteria

The \_\_\_\_\_ First Nation will apply the following criteria in selecting a consultant to prepare our EMP:

- Quality of proposal (clarity, organization, succinctness, detail, completeness, appearance, freedom from grammatical or other errors)
- Team composition and credentials
  - » Company background, size, resources, relevant projects
  - » Team member education, training, experience, professional registrations emphasizing capabilities in planning, environment, community engagement, working with First Nations, and report preparation
- Value for money
- Familiarity with First Nations, EMPs, the Framework Agreement, local conditions
- Understanding of \_\_\_\_\_ First Nation circumstances and needs.

### Proposal contents

Proposals submitted should include the following information

- Company and team credentials and experience
- Description of approach to preparing the EMP

- List of tasks to be completed
- Description of deliverables
- Detailed table showing staff hours, fees, and expenses
- List of references (with phone numbers)

### **Proposal submission**

The EMP proposal must be delivered to the \_\_\_\_\_ First Nation no later than 12:00 noon on \_\_\_\_\_, 20\_\_\_. Late or incomplete proposals will not be considered.

Please submit your proposal electronically, using PDF format, to \_\_\_\_\_@\_\_\_\_\_. Please note that files emailed to the \_\_\_\_\_ First Nation cannot exceed \_\_\_\_\_ MB in size, and larger files must be zipped or transmitted using a “cloud” service.

*OR*

Please submit three [number based on number of reviewers] copies of your proposal in hard copy to the following address:

\_\_\_\_\_ First Nation

Address (suitable for mail or courier, not PO Box)

### **Questions and clarifications**

Questions or clarifications regarding this Request for Proposals should be addressed to:

[Name of First Nation’s staff person]

Phone:

Email:

Prepared for:



[info@labrc.com](mailto:info@labrc.com) | [www.labrc.com](http://www.labrc.com)