MAYORS AND REEVES

Dear Sir/Madam:

Manitoba Treaty Land Entitlement Agreement
Municipal Tax Loss Compensation Application Form and Guidelines

The Province is pleased to announce that provincial compensation will be provided to municipalities who experience a net loss of municipal tax revenue upon conversion of land situated within the municipality to reserve under the Manitoba Treaty Land Entitlement Framework Agreement. An application form and guidelines are attached to ensure that all eligible municipalities can readily access the Municipal Tax Loss Compensation.

Compensation will be paid directly to those municipalities demonstrating a net loss in municipal tax revenues as a result of conversion of land to reserve status in an amount equivalent to five times (5x) the annual net loss at the time of conversion. Upon approval, a one-time payment will be made to eligible municipalities after the land converts to reserve.

Should you require any additional information or assistance to complete the application, both Manitoba Aboriginal and Northern Affairs and Manitoba Intergovernmental Affairs officials will be available to support your municipality. Contact information is provided in the application and guidelines.

Yours sincerely,

Jean Friesen
Minister
Intergovernmental Affairs

Yours sincerely,

Oscar Lathlin
Minister
Aboriginal and Northern Affairs



THE MANITOBA TREATY LAND ENTITLEMENT FRAMEWORK AGREEMENT

Guidelines and Application

For

Municipal Tax Loss Compensation

<u>Additional applications available at</u>:

Manitoba Aboriginal and Northern Affairs
200-500 Portage Avenue
Winnipeg MB R3C 3X1
(204) 945-2511 or (800) 282-8069
(Ask to be directed to 945-2511)
www.gov.mb.ca/ana

Association of Manitoba Municipalities
1910 Saskatchewan Avenue, Box 397
Portage la Prairie MB R1N 0P1
(204) 857-8666
www.amm.mb.ca

MUNICIPAL TAX LOSS COMPENSATION

Eligible municipalities whose municipal revenue has been impacted by the creation of new reserves under the Manitoba Treaty Land Entitlement Framework Agreement can now apply to the Province for funding support.

Compensation will be paid upon approval by the Province to those municipalities demonstrating a net loss in municipal tax revenues as a result of conversion of land to reserve status in an amount equivalent to five times (5x) the annual net tax loss at the time of conversion.

Eligibility

Municipal tax loss compensation is available to municipalities who meet the following conditions:

1. TLE sites have converted to reserve;

2. TLE sites were converted as part of the Manitoba Treaty Land Entitlement Framework Agreement;

3. TLE sites are situated within municipal boundaries;

4. TLE sites were subject to municipal property tax or grant-in-lieu prior to reserve status;

5. A net loss in municipal tax revenue has occurred as a result of transfer to reserve status.

   A net loss in municipal tax revenue occurs when fees and charges payable by a First Nation as part of a MDSA do not completely offset the annual municipal taxes that would be normally levied on a property. Or it may be that a MDSA has not been negotiated, resulting in a net loss in municipal tax revenue.

General Guidelines for Completing the Application

1. An application form must be completed for each TLE site that when converted to reserve results in an annual net loss in municipal tax revenue.

2. Municipalities can apply upon receiving notice that the land has converted to reserve. A notice confirming that the land has transferred to reserve will be sent to municipalities by Manitoba Aboriginal and Northern Affairs. If several sites are anticipated to be converted to reserve, resulting in a net loss in municipal revenue, applications may be bundled and submitted periodically.

3. To determine if there is an annual net loss in municipal tax revenue, identify the total municipal tax or grant-in-lieu levied on the site in the year the land converted to reserve *minus* any annual revenue received as part of a Municipal Development and Services Agreement (MSDA) providing for the payment of municipal services to the new reserve.

4. Municipal tax loss is five times (5x) the net loss of annual municipal taxes or grant-in-lieu levied during the year of conversion.

5. Upon approval by the Province, a one-time payment will be forwarded to the applicant equivalent to five times (5x) that municipal net tax loss.

About the Manitoba Treaty Land Entitlement (TLE) Framework Agreement

Between 1871 and 1910, Canada entered into various treaties with First Nations in Manitoba. These treaties provided that Canada would set aside a certain amount of land as reserve land for First Nations. In many circumstances, not all First Nations received their full amount of land for various reasons.

The (TLE) Framework Agreement, entered into by Canada, Manitoba and twenty Manitoba First Nations in 1997, provides for the fulfillment of this long outstanding treaty obligation.

Under this Agreement, First Nations can select Crown land or in a case where there is not access to Crown land, they can acquire (purchase) private land.

These sites, upon meeting provincial and federal eligibility will be converted to reserve. TLE sites can occur in rural or urban municipalities and in unorganized territory.

APPLICATION FOR MUNICIPAL TAX LOSS COMPENSATION

(This application must be completed for each TLE site resulting in a net loss in municipal revenue)

Municipality: _____

Address: _____

_____

Telephone: _____ **Fax:** _____

E-Mail: _____ **Contact Person:** _____

Eligibility - all criteria must be checked to be eligible for compensation:	*Please attach the following:*
⌐ The land has converted to reserve status. ⌐ There is a net loss in municipal tax or grant in lieu revenues. ⌐ TLE land selections/acquisitions were subject to municipal tax or grant in lieu of municipal tax prior to reserve status.	• legal description of converted site; • letter to your municipality from Manitoba Aboriginal & Northern Affairs confirming conversion to reserve; • "Statement & Demand for Taxes" for site (year of transfer); and • a copy of Municipal Services & Development (MDSA) for site, if applicable.

Site Name ***(as described in the provincial notice confirming site has converted to reserve)*****:**

_____

Assessment Roll Number (#) for Site: _____

Total municipal tax levied on the site in the year of conversion. (*School taxes are not eligible*).	A		$_____
Deduct annual fees or charges payable on the site as provided in the MDSA. *(Annual fees or charges paid by the First Nations to the municipality as either a grant in lieu of taxes or fees for servicing the site).*	B	–	$_____
Eligible net municipal tax or grant in lieu.	C	=	$_____
Eligible net municipal tax or grant in lieu multiplied (x) by 5.		**x 5**	$_____
Municipal Tax Loss Compensation. Amount applied for:	D	=	$ _____

Certification: ***I hereby certify that the information given on this application is true, correct and complete to the best of my knowledge.***

Signature of CAO or the Head of Council: _____

Date: _____

(For office use only)

Application checked and approved:

⌐ Aboriginal and Northern Affairs _____

⌐ Intergovernmental Affairs _____

For Assistance with Application, please call:
Manitoba Intergovernmental Affairs
Municipal Finance and Advisory Services
508-800 Portage Avenue, Winnipeg MB R3G 0N4
(204) 945-4864 or (800) 282-8069
(Ask to be directed to 945-4864)

Forward Applications to:
Manitoba Aboriginal & Northern Affairs
200 - 500 Portage Avenue
Winnipeg MB R3C 3X1

Office of the Chief Administrative Officer • Bureau du directeur municipal

April 17, 2018

Mr. James Wilson
Acting Deputy Minister of Indigenous and Northern Relations
309 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Dear Mr. Wilson,

Municipal Tax Loss Compensation

I am writing to you to formally express a concern that the City of Winnipeg ("the City") has with the current administration of Municipal Tax Loss Compensation within the Province of Manitoba.

I know that you are aware of the current negotiations occurring between the City and Peguis First Nation ("Peguis") toward the conclusion of a Municipal Development & Services Agreement ("MDSA"). You are also undoubtedly aware that proposals that have been advanced by Peguis incorporate fees for municipal services that involve some level of discounting from the payments that would otherwise be made on account of property taxes, if Peguis were subject to the City's authority to tax.

This is in marked contrast to the arrangement the City negotiated with Long Plain First Nation at its Madison Reserve. It is also acknowledged that the discounting proposed by Peguis is similar in nature to the arrangement recently reported between Gambler First Nation and the City of Brandon.

Throughout our internal discussions in support of the negotiations with Peguis, Municipal Tax Loss Compensation is a frequent topic of discussion. I understand that this item was discussed, albeit briefly, at a large multi-party meeting at INAC offices on March 2, 2018; I understand you were also present during that discussion. I am advised that at that meeting, the City (represented by Chief Corporate Services Officer Michael Jack) suggested that the Province compensate any affected municipalities on a full-loss recovery, ongoing basis, as opposed to an amount calculated on the basis of a 5-year total.

I am further advised that the suggestion didn't attract any significant level of detailed discussion during that particular meeting.

Therefore, the purpose of this letter is twofold:

- To request an explanation and/or articulation of the basis for the Province capping its willingness to compensate Municipal Tax Loss at a lump sum of "5x annual loss"; and

- To formally request that the Province immediately revisit this Program with the objective of amending it to provide for Municipal Tax Loss Compensation on an ongoing basis, with no stated maximum or end date for said compensation.

With respect to the former, I acknowledge that the true basis for the 5-year cap may be arbitrary; it is not uncommon at any level of government for a compensation program to be structured on such a basis.

Even if such caps are selected arbitrarily, I note other Provinces such as Saskatchewan, which compensates on what is arguably a more restorative basis; for instance, Saskatchewan's Rural Municipal Compensation Fund provides a payment calculated at 90% of 25x the municipal tax loss.

For the last several years (and much more so recently), we have been engaging in numerous discussions with members of the City's public service as well as our elected officials to explain/discuss all aspects of this situation, and when asked why the Province compensates on this severely limited basis, we have nothing to offer.

To more fully articulate our difficulty with this:

- By offering compensation to municipalities at all, one could suggest the Crown is acknowledging an obligation to make municipalities whole;
- Notwithstanding this fact, the Province restricts compensation for 5 years out of a potentially infinite timeline;
- We are unable to find any other example in the common law where the obligation to compensate is acknowledged, but said compensation is capped arbitrarily and so early into the timeline for which compensation is offered.

I am hopeful we can engage further to discuss how the Crown may be able to amend this program on a basis that comes much closer to achieving the stated intent of compensating municipalities for any tax loss. I look forward to your response.

Yours truly,



Doug McNeil, P.Eng.
Chief Administrative Officer

cc. His Worship Mayor Brian Bowman
Mr. Michael Jack, Chief Corporate Services Officer
Mr. Stephen Traynor, Regional Director General, Indigenous and Northern Affairs Canada
Ms Jan Forster, Acting Deputy Minister, Manitoba Municipal Relations

Manitoba
Indigenous and Northern Relations
Deputy Minister's Office
Room 309 Legislative Building
Winnipeg MB Canada R3C 0V8
General Office: 204-945-0565
Fax: 204-945-5255

April 25, 2018

Mr. Doug McNeil, P.Eng.
Chief Administrative Officer
City of Winnipeg
2nd Floor, 510 Main Street
Winnipeg, MB R3B 1B9

Dear Mr. McNeil:

Thank you for your letter dated April 17, 2018 wherein you inquire about urban reserve creation and the Government of Manitoba's municipal tax loss compensation policy in the context of negotiations between the City of Winnipeg and Peguis First Nation of a Municipal Development and Services Agreement for lands acquired by Peguis First Nation in Winnipeg.

As you know, municipalities are eligible to apply to the Government of Manitoba for tax loss compensation for lands selected or acquired by Entitlement First Nations within a municipality. Taking into consideration other tax loss compensation approaches across the country, this policy was developed to permit payments to municipalities of five times the potential net tax loss. The five-year measure was based on policy considerations, including the provincial lending rate and the ability of municipalities to adjust to potential tax loss. The policy is not intended to fully replace municipal taxes indefinitely but to assist in planning and budgeting during the transition to First Nation reserve status.

Tax loss compensation policies and accompanying Treaty Land Entitlement (TLE) Agreements across Canada vary substantially and often in accordance with unique circumstances in specific jurisdictions. For instance, while Saskatchewan's tax loss compensation policy contains a provision of 25 times the net tax loss, as noted in your letter, this provision only applies to rural (i.e., non-urban) properties and is attached to a cost-sharing mechanism with the Government of Canada wherein Canada covers 70%.

The Government of Manitoba understands that the City of Winnipeg continues to have the opportunity to address long-term municipal service costs through direct negotiations with Peguis First Nation by developing a Municipal Development Services Agreement (MDSA). Under the TLE Framework Agreement and the 2008 Peguis First Nation TLE Agreement, reasonable concerns of the municipality are to be considered and addressed before the land is set apart as reserve. MDSAs are intended to be negotiated between a First Nation and municipality to address issues of mutual concern,

such as provision of municipal services and by-law compatibility, including payment for costs of services and infrastructure. While there is no standard form of MDSA, there are examples and guidelines to assist municipalities and Entitlement First Nations.

As noted in your recent letter, Gambler First Nation and the City of Brandon have an MDSA that allows for flexibility around municipal tax payments. This structure was determined by the parties involved. In addition, various approaches to MDSAs have been taken across Canada including a fee-for-service approach which may be most applicable in instances where a property is recognized to have significant revenue generating potential.

The development of urban reserves in the City of Winnipeg presents an excellent opportunity to strengthen partnerships, support mutually beneficial development, and focus efforts on reconciliation. I am hopeful that the City of Winnipeg will be able to complete an agreement with Peguis First Nation that enhances the lives of Indigenous people. Manitoba believes it would be mutually beneficial for the City and Peguis First Nation to amicably come to an agreement and allow the process to successfully move forward.

I trust the information provided here is helpful, and thank you again for your letter.

Sincerely,

James Wilson
A/Deputy Minister
Indigenous and Northern Affairs

c. Jan Forster, A/Deputy Minister, Municipal Relations