

Lheidli T'enneh

Request for Proposals

**Lheidli T'enneh
Environmental
Management Plan**

Request for Proposals

Lheidli T'enneh Environment Management Plan

Department: Lheidli T'enneh Lands RFP Number: L001-21

Issue date:

Closing Time: Proposals must be received before 04:00 PM Pacific Standard Time on: Monday, December 20, 2021

DELIVERY OF PROPOSALS: Proposals must be in English and must be submitted via email, and must either include:

- (1) a copy of this cover page that is signed by an authorized representative of the Consultant or
- (2) otherwise identify the Consultant and include the signature of an authorized representative of the Consultant that confirms the intent to be bound.

Email Submission: Consultants must submit an electronic proposal by email. Proposals submitted by email must be submitted to landsmanager@lheidli.ca in accordance with the instructions herein.

Proposals must be received before Closing Time to be considered.

A proposal is deemed to incorporate the Confirmation of Consultant's Intent to be bound by below, without alteration. Consultants must not alter any portion of the RFP document, except for adding the information requested. Any alteration will invalidate the Submission.

CONFIRMATION OF CONSULTANT'S INTENT TO BE BOUND:

The enclosed proposal is submitted in response to the referenced Request for Proposals, including any Addenda. By submitting a proposal, the Consultant agrees to all the terms and conditions of the RFP including the following:

- a) The Consultant has carefully read and examined the entire Request for Proposals;
- b) The Consultant has conducted such other investigations as were prudent and reasonable in preparing the proposal; and
- c) The Consultant agrees to be bound by the statements and representations made in its proposal.

CONSULTANT NAME (please print):

NAME OF AUTHORIZED REPRESENTATIVE (please print

SIGNATURE OF AUTHORIZED REPRESENTATIVE:

DATE:

Scope of Proposal

Lheidli T'enneh invites proposals from qualified consultants to develop an Environmental Management Plan (EMP) in accordance with this Request for Proposals (RFP).

Proposal Inquires/Questions

For questions and clarification respecting the RFP please email the lands manager at landsmanager@lheidli.ca.

Project Description

1. Purpose

This RFP is being issued to procure assistance from qualified consultants for the development of an EMP for Lheidli T'enneh First Nation, to be completed over a period of approximately five (5) months, starting in December of 2022 with the submission of proposals.

The EMP is intended to be an inclusive community-driven process that establishes a Lheidli T'enneh environmental community vision, identifies existing and potential environmental issues and strategies to address those issues, as well as the long-term goals and objectives over a range of environmental issues that are relevant to Lheidli T'enneh. Work to develop Lheidli T'enneh's EMP is to be conducted in accordance with the attached document titled 'A Guide to Preparing Environmental Management Plans for Operational First Nations' (March 2016) attached as an appendix to this RFP.

The EMP is intended to build upon our Environmental Management Framework (2007), integrate with existing Lheidli T'enneh plans and governance related documents, including but not limited to our Land Code (2000) and Land Use Plan (2017). The project will conclude with the submission of a final EMP in May 2022.

2. Qualifications

The successful consultant will have on their team a Registered Professional Planner (RPP), with Membership in the Canadian Institute of Planners (MCIP), ideally with direct experience and expertise with First Nation signatories to the Framework Agreement on First Nation Land Management (FA) and a proven track record working with First Nations on EMPs and related policy development.

3. Introduction and Background

Lheidli T'enneh means the people from the confluence of the two rivers. Lheidli T'enneh is located near Prince George, BC and is at the confluence of the Fraser and Nechako Rivers. We currently have a population of approximately 500 people (based on projections identified in our 2017 Land Use Plan), about half of which live on-

reserve. Our Traditional Territory extends eastward to the Rocky Mountains, westward to Cluculz Lake, northward to Summit Lake and southward to Hixon. Following colonization, the imposition of the *Indian Act* and the dispossession of our land base, Lheidli T'enneh is left with the following four Indian Reserves, which represent a mere fraction of our Territory:

- Shelley Indian Reserve Number 2 (527 hectares)
- Clesbaoneecheck Indian Reserve Number 3 (129 hectares)
- Salaquo Indian Reserve Number 4 (18.6 hectares)
- Fort George Cemetery (0.9 hectares)

Lheidli T'enneh is a signatory to the Framework Agreement on First Nation Land Management. Lheidli T'enneh's Land Code came into force on November 15, 2000, permanently removing 44 sections of the *Indian Act* pertaining to land management, allowing us to resume our lands governance authority over our reserve areas. This has been an integral part of our journey towards self-government, and we envision the EMP to be a critical next step in this journey and in identifying a idyllic environmental vision for our community. It is intended that the EMP will reflect the consensus of our community, staff and leadership, in terms of vision, goals and specific actions we can take, and in so doing serve as an important governance tool for our Nation as we progress into the future.

The preparation of an Environmental Management Plan will be guided and supported by the Lheidli T'enneh Lands Manager, as well as the Lheidli T'enneh Lands Authority, comprised of Lheidli T'enneh members and staff. Responsibilities of the Committee, in relation to the EMP, are as follows:

- Providing overall direction to the Lands Manager and consultant on the design and delivery of the planning process
- Making recommendations to Lheidli T'enneh Chief & Council regarding the EMP, it's purpose and how it will be enacted
- Providing Lheidli T'enneh members (on and off Reserve) with information about the Environmental Management Planning initiative
- Identifying questions from Lheidli T'enneh members (on and off Reserve) and bringing them to the Committee for discussion
- Ensuring the EMP represents Lheidli T'enneh member's (on and off Reserve) needs and interests
- Assisting in community engagement activities programs, advertising, and scheduled events
- Identifying, assessing and evaluating key issues relating to the EMP, and
- Providing technical assistance with the development of EMP related policies, goals and actions

4. Planning Area

The study area is comprised of the Lheidli T'enneh Traditional Territory, with a focus on our Indian reserve land base as described in Section 3. *Introduction and Background*.

5. Scope of Work

The successful consultant will play a supportive role in designing and implementing an environmental planning process that fits the vision of our community and will work with the Lheidli T'enneh staff, Lands Authority, and community members to identify environment issues. Strategies should be developed based on a review of historic records, plans, policies, and through extensive community engagement. This will include the dissemination of information (memos and briefing notes, presentations etc.) and carrying out of community engagement (meetings, presentations) to grasp member concerns and review of existing documentation. It is expected that there will be a minimum of two (2) community engagement sessions. One (1) to inform the community regarding the EMP process and collect input on environmental issues and another to present a draft of the EMP to the members. Other meeting considerations include meetings with Chief and Council and the Lheidli T'enneh Lands Authority. You will work under the direction of the Lands Manager and the Lheidli T'enneh Lands Authority, applying your professional environmental experience and expertise in assisting the overall design and delivery of a community-driven process. It is expected that there will be the opportunity for at least two revisions to the EMP before it is finalized.

It is anticipated that the EMP will conform with the Lands Advisory Board Resource Centre's (LABRC) guiding document: *See Appendix*

6. Special Considerations:

Connection to the Lheidli T'enneh Land Code (2000) and Land Use Plan (2017)

The Land Code represents our fundamental Land Law and the departure point for our community away from the colonial oppression of the *Indian Act*. It is expected that the spirit of the EMP will align with this objective and ultimately follow the requirements of the Land Code. Likewise, Lheidli T'enneh passed a Land Use Plan in 2017 pursuant to our Land Code authority; it is expected that the planning consultant will ensure that the EMP builds on this past planning work and does not duplicate it.

Environmental Management Framework

An Environmental Management Framework (EMF) document was completed by the Lheidli T'enneh First Nation in 2007 to address environmental management issues highlighted by band members during environmental task committee meetings and from responses on reserve. The EMF also concentrated on issues highlighted from previous Environment Site Assessments (ESA) completed at Shelley North, Shelley South, Clesbanoechek and Salaquo.

Capacity Building

Lheidli T'enneh is a highly-motivated, determined and self-reliant nation. We anticipate that a meaningful planning process will result in an increase in planning capacity within the Nation. Please indicate in your proposal specifically what actions you will take to ensure there is a demonstrable and measurable increase in our planning capacity.

COVID-19

The consultant should be mindful of COVID realities, restrictions and precautions throughout the delivery of the EMP and give due consideration in the development of proposals.

7. Community Engagement and Meeting Requirements

The proposal must include a description of the purpose, type, proposed outcome, and number of meetings and engagement tools proposed (e.g., virtual or in person meeting, other community engagement strategies (e.g., surveys, newsletter notices etc.) for the Lands Authority, staff, Lheidli T'enneh Membership (on and off Reserve), and Chief and Council, respecting the realities of COVID-19 and noting that mass gatherings might not be possible.

8. Available Information

The Lheidli T'enneh Lands Department will provide necessary reference documents including the community's Land Code, Land Use Plan, EMF, ESA and any others as necessary and available. GIS data, mapping resources, and other information can be made available as required.

9. Workplan

The proposal must provide a detailed work plan indicating the timing for conducting the EMP and the approximate timing for the various tasks included, the cost of each of the phases broken down by task and the date of final submission to Lheidli T'enneh.

10. Project Budget

A budget of \$60,000 has been allocated for consulting fees for EMP completion. The proposal must include an itemised budget that provides sufficient cost breakdown of how the allocated budget.

11. Schedule and Deliverables

The selected consultant will be required to provide the following to Lheidli T'enneh during the preparation of the EMP:

- Work Plan
- Community Engagement Plan
- Communication Material: memos, briefing notes, newsletter notices, surveys, meeting minutes, summaries of community input etc.
- Initial Draft EMP
- Revised 2nd Draft EMP
- Final Completed EMP
- One (1) electronic PDF version of all draft and final reports
- One (1) electronic copy in PDF, JPG or TIFF or compatible version of all plans, illustrations, maps, and/or drawings produced during the Project; and,
- One (1) electronic copy of any GIS information (SHP format) created as part of the Project.

It is expected that a draft of the EMP would be available for review by February 18, 2022, and the completed EMP submitted by April 22, 2022

Proposal Submission Requirements

1. Format

To receive uniform format of responses and information from all prospective consulting firms the following should be addressed and included in your submission:

- The proposal shall be submitted electronically only in PDF format including a signed confirmation of the consultants intend to be bound to their proposal, as well as a letter of submission signed by an authorized representative of the Consultant
- The proposal shall outline the cost of conducting the works listed both as a total price and cost per task format
- The proposal shall include a detailed Work Plan/Timing for the Project
- The proposal shall include a detailed written description of the firm's experience working with First Nations on this type of project, as well as team member's individual education, experience in working on planning documents, working with First Nations, and conducting community consultation

- The proposal shall include a summary of the Consultant's professional information and history and relevant experience.
- Note that preference will be given to a consultant with a Registered Professional Planner (RPP) and a Member of the Canadian Institute of Planners (MCIP) on their planning team
- The proposals shall include a minimum of three references listed for contact respecting recent and relevant projects.

2. Evaluation Process & Criteria

The selection of a consultant is a competitive process and therefore Lheidli T'enneh reserves the rights to accept or reject in whole or in part any or all proposals and cancel all or part of this RFP process for any reason at the sole discretion of Lheidli T'enneh and to negotiate contracts with the selected consultant whose proposal is most acceptable to the Nation.

Lheidli T'enneh will use the following criteria while evaluating proposals (but not exclusively):

- The degree to which the proposal responded to elements of this RFP
- Company background
- The demonstrated ability of the consultant to provide the services defined in this RFP:
- Experience working with Developmental or Operational First Nations
- The demonstration of relevant experience in conducting similar projects and the professional reputation of the consultants
- The demonstration of creative approaches to community consultation and planning processes
- The proposed total cost including contingency

3. Assumptions and Contract

The selected consultant will be expected to enter a Contract with Lheidli T'enneh addressing the full scope of the work and its obligations to perform the work in compliance with any applicable laws and requirements.

The selected consultant will indemnify Lheidli T'enneh from all costs, charges, expenses and other claims with respect to the job functions being carried out. This will include possessing and confirming:

- General Liability and/or Professional Liability Insurance.
- Automobile Liability Insurance.
- WCB Clearances (if required).
- Any other labour requirements.

4. Contract Award

The final authority to award the Project rests solely with Lheidli T'enneh. Consultants are advised that the lowest cost proposal will not necessarily be awarded the contract as the selection will be based on the evaluation criteria and cost is only one of the criteria. Lheidli T'enneh will not be responsible for any preparation costs incurred by the consultant submitting a proposal and will not pay for any accommodation, meal or travel expenses to participate in interviews or contract negotiations.

5. Submission

Proposals should be submitted electronically in PDF format only including a letter of submission signed by an authorized representative of the Consultant to:

landsmanager@lheidli.ca

Subject: Lheidli T'enneh ENVIRONMENTAL MANAGEMENT RFP Submission

Lheidli T'enneh will not accept proposals in any other format. It is the responsibility of the consultant to ensure that the proposal has been received and all documents required have been submitted. Submitting a proposal confirms and certifies that the prospective consultant has read and fully understands and accepts the terms of the RFP and its requirements.

6. Submission Deadline

Proposals must be received by 04:00 PM Pacific Standard Time on: Monday, December 20, 2021. **Proposals received after the deadline will not be considered.**

APPENDIX

A Guide to Preparing Environmental Management Plans For Operational First Nations

VERSION 2.0/ MARCH 2016



Prepared for the First Nations Land Management Resource Centre Inc.

By: David Harper, Ph.D., CPESC, MCIP, R.P.P



A Guide to Preparing Environmental Management Plans for Operational First Nations

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ACKNOWLEDGEMENTS

Preparing this Environmental Management Plan Guide involved the contributions of many people. The original idea for the Guide was provided by Meko Nicholas, Assistant Executive Director of the Lands Advisory Board Resource Centre (LABRC). The LABRC Executive Director, Dr. Graham Powell, authorized preparation of the document and advice on substance and presentation. Dr. Daniel Millette, Director of Strategic Planning and Communication for LABRC offered valuable suggestions for the Guide's content, and Ruth Nahanee, Online Knowledge Dissemination, provided many of the document's graphics. Suzanne Winch, LABRC Planning and Communications, formatted and enriched the presentation of the Guide. The Guide was reviewed during three Environmental Management Planning workshops, which generated many valuable suggestions by the First Nations represented at the meetings. Cheri Redden, Director of First Nations Land Management for Indigenous and Northern Affairs Canada (INAC), assembled and provided comments on the draft document prepared by her colleagues.

The value of this Guide is the result of the actions of the people who devoted their time and effort to its preparation.

The Guide will need to be updated from time to time, to reflect changes in legislation and lessons learned from the First Nations that continue to develop and implement Environmental Management Plans.

It has been a pleasure working with the First Nations, LABRC, and INAC staff in preparing the Environmental Management Plan Guide.

David Harper

Victoria, British Columbia

March 2016

GLOSSARY AND ACRONYM DEFINITIONS

BMP	Best Management Practice
CCME	Canadian Council of Ministers of the Environment
CEAA	Canadian Environmental Assessment Act
CEPA	Canadian Environmental Protection Act
Courselets	Online information provided by LABRC to aid First Nations staff in implementing their Land Codes and managing their lands, including environmental matters.
DFO	Fisheries and Oceans Canada
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.
EMP	Environmental Management Plan, intended to identify important environmental issues and propose methods to respond to those issues.
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.
FNLMA	First Nations Land Management Act, the federal act that supports the <i>Framework Agreement</i> on First Nations Land Management
INAC	Indigenous and North Affairs Canada
LAB	Lands Advisory Board, the elected body authorized by the <i>Framework Agreement</i> that assists First Nations in developing and implementing Land Codes and other provisions of the <i>Framework Agreement</i> .
LABRC	Lands Advisory Board Resource Centre, the staff hired by LAB to deliver technical services to First Nations and to the LAB.
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 resulting proposals are used by a client to select a firm for a specified project.
SARA	Species at Risk Act

INTRODUCTION AND PURPOSE

This guide is intended to assist Operational First Nations in preparing Environmental Management Plans (EMPs)¹. There is no legal requirement to prepare an EMP, but most First Nations recognize the value of planning as an important initial step in the 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 Lands Advisory Board Resource Centre (LABRC) has prepared other information on Land Code implementation, including material on environmental management. In particular, the online courselets [<http://labrc.com/resources/courselets/>] cover a variety of environmental topics. Before preparing an EMP, it would be useful to review the courselet material thoroughly.



One of the LABRC courselets says that an EMP:

“Defines a First Nation’s approach to important environmental issues and organizes actions to achieve specified environmental goals”.

An EMP, therefore, can be seen as a tool for identifying environmental issues on a First Nation’s land, and proposing responses to resolve those issues.

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

¹ This guide refers to Environmental Management Plans, though some First Nations may call the documents Environmental Plans, Environmental Management Frameworks, or other similar terms. Environmental Management Plans should not be confused with Land Use Plans, Environmental Site Assessments, or Environmental Assessments. All of these tools are necessary to adequately manage First Nations lands.

A. MEETING A FIRST NATION'S ENVIRONMENTAL REQUIREMENTS UNDER THE *FRAMEWORK AGREEMENT*

The *Framework Agreement* contains several sections that influence the content of an EMP.

Framework Agreement Sections	Description
Granting law-making powers [Sec. 8.1]	<ul style="list-style-type: none"> » The council of a First Nation with a land code in effect 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 licenses in relation to that land.
Environmental Regimes & Laws [Sec. 3.1]	<ul style="list-style-type: none"> » The council of a First Nation with a land code in effect will have the power to make environmental laws relating to First Nation land. » The Parties intend that there should be both an environmental assessment and an environmental protection regime for each First Nation. The environmental assessment and protection regimes will be implemented through First Nation laws. » The Parties agree to harmonize their respective environmental regimes and processes, with the involvement of the provinces where they agree to participate, to promote effective and consistent environmental regimes and processes and to avoid uncertainty and duplication.
Limits to environmental authority [Sec. 23.1]	<ul style="list-style-type: none"> » This Agreement is not intended to affect rights and powers relating to migratory birds or endangered species. These matters may be dealt with in the context of other negotiations. This Agreement is not intended to determine or prejudice the resolution of these issues. » Before an Operational First Nation considers drafting laws and regulations dealing with fish and wildlife, it should recognize that several federal acts remain in effect on reserves, namely the Migratory Birds Convention Act, Species at Risk Act, and Fisheries Act. Other federal laws that continue to apply on Operational First Nation land include, among others, the Indian Oil and Gas Act, Emergencies Act, Nuclear Safety and Control Act, and Nuclear Energy Act.

<p>Funding and environmental responsibility [Sec 27.1 & 30.1]</p>	<ul style="list-style-type: none"> » 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. » An individual agreement between the Minister and a First Nation will determine the resources to be provided by Canada to the First Nation to manage First Nation lands and make, administer and enforce its laws under an Operational Funding Agreement. The agreement will determine specific funding issues, for example period of time, and terms and conditions.
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Using the authority contained in the *Framework Agreement*, an EMP can outline the kinds of laws a First Nation wishes to pass. The First Nation should prepare “regimes” pertaining to environmental protection (dealing with contaminants) and environmental assessment. 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 adopt bylaws under the Indian Act. Such bylaws are generally considered to be relatively ineffective in addressing environmental issues.

B. ENVIRONMENTAL MANAGEMENT RESPONSIBILITIES

With the adoption of a Land Code, a First Nation accepts responsibility for governing and managing its lands. This responsibility can be seen as having the following three components.

1. Protecting community members and reserve ecosystems from environmental harm by controlling human actions and 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. Complying with environmental requirements of the *Framework Agreement*. Section B of this Guide presents the environmental sections of the *Framework Agreement*, with which First Nations must comply. 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 Section 27.1 requirement for adequate resources and expertise does not apply to this need to comply with other federal laws.

Legal and potentially financial liability accompany an Operational First Nation's responsibilities for managing environmental issues that are created 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 an important element in proving due diligence in environmental management.

Environmental issues that existed before a land code takes effect remain the responsibility and liability of Canada.

C. DETERMINING WHETHER AN EMP IS NECESSARY

The *Framework Agreement* does not refer to EMPs. The usefulness of such plans has become evident as First Nations wrestle with questions about how to meet their legal obligations, limit liability, and reestablish their roles as stewards of their land. Even though First Nations are not required to prepare EMPs, experience of many First Nations indicates that such plans are valuable aids to setting directions and guiding future efforts to achieve environmental management and land governance goals.

A First Nation may choose to forego the preparation of an EMP if the following conditions exist:

- An Environmental Management Framework or similar document has been completed and adopted by Council,
- No major environmental issues exist that affect First Nations land, air, water, or community members,
- Limited future land development is anticipated,
- The community is well informed about environmental issues on First Nation lands
- Staff and Council understand what environmental laws and policies are needed, or such laws and policies are already in place,
- The First Nation implements effective budgeting, staffing, and work program planning and approval processes for environmental management.

To decide whether the foregoing conditions prevail, the First Nation's environmental staff should assemble and review available environmental reports to ensure that important issues have been identified and a response strategy has been developed. The assistance of specialists may be necessary. Existing or future development that could affect the environment should be identified and considered.

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 whether or not to proceed with an EMP.

C.1. Benefits of an EMP

As decisions are considered regarding the preparation of an EMP, the benefits of having such a plan should be part of the discussions.

EMPs provide many benefits to First Nations, including:

- Identifying and listing important environmental issues that should be addressed,
- Engaging the community in addressing environmental issues,
- Articulating a clear vision of a desired future environmental condition, with associated goals and objectives of environmental management on First Nations land,
- Allowing traditional knowledge to be documented and integrated with a First Nation's environmental management program, either through new investigations or use of Traditional Use Studies that may have been conducted on the community's lands,
- 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,
- Forming a rigorous process that will reduce the First Nation's environmental liability risk,
- Identifying ways to avoid the effects of contamination on reserves and subsequent costly remediation, and
- Creating a document that communicates the First Nation's environmental priorities and directions to staff, community members, other governments, businesses, and institutions.

To achieve these benefits, a First Nation must design and implement an appropriate process for preparing its EMP.

EMPs can also avoid common environmental management problems. For example, without the clear direction provided by an EMP, a First Nation may experience:

- "Crisis management," in which Council and staff fail to anticipate problems, and instead respond to a series of environmental emergencies,
- Ineffective program administration, as there is little structure to environmental management, guidance to staff, or a defined work program for resolving environmental issues,
- Work programs that are not cost-effective, as the First Nation lacks criteria for determine how best to schedule work and spend its environmental funds, and
- Friction between the First Nations community, Council, staff, and adjacent jurisdictions, as the dialog and information sharing that accompanies preparation of an EMP is absent

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.

C.2. Relationship of EMP and other plans and studies

EMPs do not exist in a vacuum, but are one of a series of plans and studies conducted by First Nations as part of land management. Figure 1 shows the relationship among some of the more common kinds of plans and studies conducted by First Nations that have potential links to environmental issues.

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. Staff hiring and training plans, capital plans, land use plans, and economic development plans are some of the documents prepared by Land Code First Nations that are related to environmental management. As shown in Figure 1, the relationship between an EMP and, say, a Land Use Plan or Economic Development Plan is reciprocal. That is, the environmental implications of development need to 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.

After adoption of an EMP, a First Nation should prepare a detailed, multi-year implementation plan. The implementation plan should assign responsibilities for environmental programs, estimate budgets, and establish schedules. Additional detailed plans dealing with specific environmental matters may be needed to advance the goals and policies of the EMP.

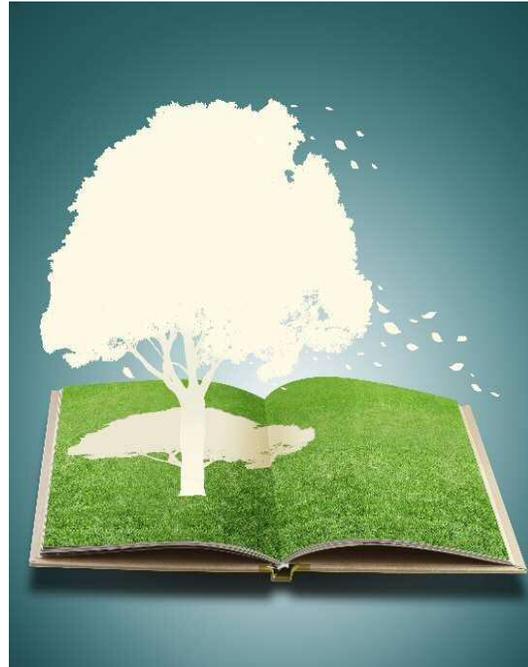
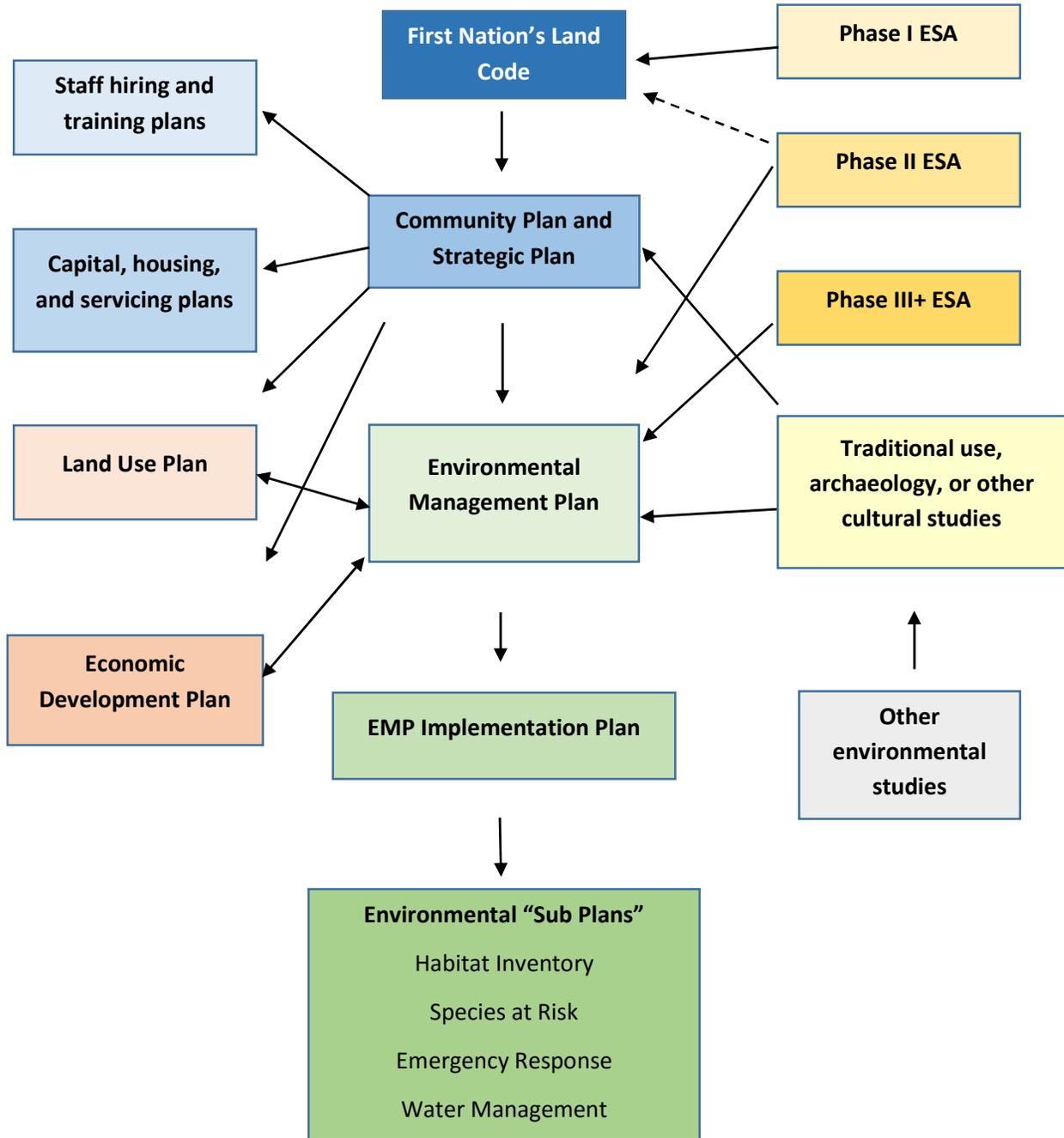


Figure 1: Relationship of EMPs to other Operational First Nation plans and studies



D. DECIDING WHO SHOULD PREPARE THE EMP

After a First Nation has determined that it wants to prepare an EMP, several preliminary steps should be taken. An initial question to answer is, should a First Nation prepare an EMP using its own staff or should it hire a consultant? Several ancillary questions are:

- 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, and prepare materials for community review?
- Does the First Nation have the same kind of liability insurance that an environmental planning professional might have, in the case of errors or omissions?

As an aid to making decisions about the use of First Nations staff, and perhaps to guide hiring, Appendix B contains examples of job descriptions for a First Nations Environmental Manager and Environmental Technician. First Nations would need to review such descriptions to determine if they 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, 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.



Some First Nations have been successfully prepared EMPs by First Nations staff. If a First Nation decides to pursue this route, the information in this Guide should be helpful in organizing and conducting the initiative.

In most cases, First Nations that have recently adopted Land Codes lack the staff capacity to conduct environmental planning work. These First Nations typically seek the assistance of the LABRC and often retain consultants to help prepare EMPs. Using consultants to prepare an EMP requires care and attention, and the following section presents information to aid First Nations in the process of retaining and managing consultants involved in preparing EMPs.

E. 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. LABRC staff are available to assist First Nations in developing an approach to hiring environmental consultants.

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 subtleties of the EMP and be more effective in implementing the plan and answering community questions about it. As with other land management-related plans, it will be of little help if the consultant goes away, prepares the EMP, 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.

Similar to the approach described in Section D of this Guide, two or more First Nations may choose to combine their efforts and hire a single consultant to prepare their EMPs. Such collaboration may reduce consultants' overhead costs for travel and accommodation. However, because separate EMPs (and community meetings and field work) would be required for each participating First Nation, collaboration may not materially reduce project costs for participating First Nations.

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

E.1. Who should be invited to bid?

A First Nation may have a relationship with a suitably qualified consultant, or a Request for Proposals (RFP) may be prepared to solicit bids from environmental planning firms to participate in the project.

In most cases, it would be advisable for a First Nation to 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 very large number of proposals could be received, creating a burden for staff who must review the proposals. By selecting a smaller number of qualified firms that will be directly requested 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 firms to spend time unnecessarily. Some consultants—particularly successful firms that are already busy—may not respond to a “cattle call,” where the odds of winning the work are small. Firms are more likely to respond to a direct invitation to a few selected companies, and to devote more effort to preparing proposals under such circumstances.

A First Nation may identify candidate firms by asking other First Nation communities or municipalities for references of capable environmental planning firms. Professional



organizations, such as provincial branches of the Canadian Institute of Planners, may be able to provide a list of consultants. Online web searches can help to identify firms that have a presence on the Internet or that have published environmental planning documents. Appendix C of this Guide presents weblinks to some of the professional organizations in Canada that could aid in selecting environmental consultants.

Though there are no fixed rules for how many bids should be requested, a rule of thumb is no fewer than three and no more than six. 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.

E.2. Basic qualifications of EMP consultants

A First Nation should obtain 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 inapplicability of the Indian Act to land management, development, and environmental protection. The *Framework Agreement* changes the roles 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.

Figure 1. Key consultant competencies



Appendix D of this Guide lists the kinds of expertise and professional registrations that could be relevant to consultants or First Nations staff who are involved in environmental management. Note that new or different professional accreditations arise frequently, so the list should not be considered exhaustive.

Consultants preparing EMPs should recognize the capacity challenges faced by First Nations, including limited staff time, training, experience, or funding. An EMP drafted to meet the needs of a First Nation will differ substantially from one prepared for other governments. The bureaucracies of provincial and federal governments employ thousands of civil servants to administer laws and programs. First Nations cannot, and should not, seek to emulate such governance models. Despite the size of their programs, the efficiency and effectiveness of senior governments in protecting environmental quality is often questioned, as are the wisdom and timeliness of decisions affecting the environment. Consultants should recognize these limitations of senior government approaches to environmental management and land governance, and prepare plans, policies, and laws that reflect the needs and capacity of First Nations and that achieve the goals of protecting and improving environmental quality of First Nations land.

Consultants that have experience and knowledge of environmental planning on reserves should be ready to learn about local conditions and to prepare recommendations that are specific to the community. Sometimes, having extensive experience can limit the ability to see and respond to local conditions, particularly if the consultant takes a “template” approach, in which methods used elsewhere are assumed to be appropriate in a new circumstance. A First Nations 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.

Some First Nations have been approached to begin work on EMPs before their land codes are formally in place. Preparing an EMP in the absence of an adopted land code creates several challenges, including:

- Presupposing or attempting to predict land governance, legislative, and management processes before they are approved by the community,
- Assigning resources to preparing an EMP before budgets for implementing the land code have been created,
- Lands and environmental staff or consultants have yet to be hired to help direct the implementation of a land code and to participate in preparing the EMP,
- Lands offices that can direct the implementation of a land code have yet to be organized, and
- This approach bypasses the Request for Proposals process (discussed in the following section of this Guide), thereby favoring a firm that may not be equipped to provide the appropriate knowledge or expertise to prepare a useable final product.

For these reasons, it is advisable for First Nations to await adoption of their land codes before initiating the preparation of EMPs.

If a First Nation wishes to retain a consultant known to them, the First Nation should not assume that the familiar firm is necessarily qualified to prepare an EMP. If the First Nation proceeds

with a “direct award” to a consultant, it is a good idea to request a written work program, budget, list of deliverables, and schedule for the EMP, and to sign a contract for conduct of the work. Such a work program could be a simplified version of the information expected in a response to a Request for Proposals.

E.3. 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). A First Nation’s RFP for preparing an EMP should contain the following information:

- A clear and detailed description of the community, why the EMP is needed, and the scope of services being sought,
- A list of available the First Nation’s reports, studies, maps, and plans that could be useful to preparers of an EMP,
- A description of the deliverables expected (e.g., materials for community presentations, hard copy and digital versions of the draft and final EMP, mapping, lists of references, etc.),
- Expected start and finish dates, and any specific deliverable deadlines in between,
- The preferred credentials of bidders (such as registration in the Canadian Institute of Planners, experience with First Nations, understanding of the *Framework Agreement*, knowledge of environmental planning principles, and familiarity with local conditions),
- Explanation of the criteria that the First Nation will apply in selecting the successful consultant,
- Statement of the available budget for the work,
- A list of specific information the consultant should include in the proposal (typically the company background, experience conducting similar projects, experience working with Developmental or Operational First Nations, approach to be taken to preparing the EMP, list of specific tasks, credentials of staff to be involved in the project, schedule, budget, and list of references),
- Who to contact in the First Nation if the consultant has questions about the RFP, and
- A clear description of when the proposal is due (time and date), where it is to be delivered, and how it is to be provided. A First Nation may desire electronic proposals only, hard copy only, or a combination. Explain that the First Nation will not consider late proposals or proposals that lack required content.

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

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.

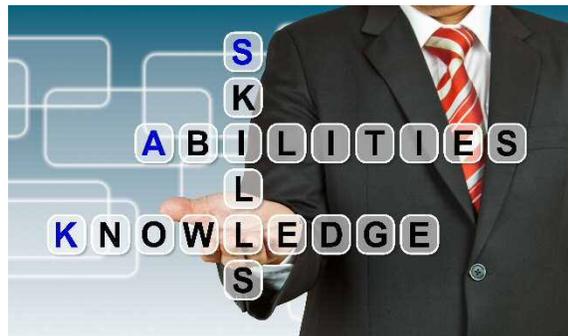
The final RFP should be sent to the selected candidate firms with a request that the firms confirm receipt of the RFP. Mail, courier, or email can be used to distribute the RFPs. It is often advisable to accompany the RFP with a brief letter from the Chief, a Councillor, or Lands Governance Director, 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 many firms will not 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.

E.4. Selecting consultants and managing the subsequent work

Well before the proposal deadline is reached, the First Nation should begin planning the consultant selection process. Key participants in selecting a consultant need to be available in the interval 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 time when the reviews are to be completed should be conveyed to the reviewers.
- It may be helpful to distribute a table containing selection criteria to guide the reviewers, and to help the reviews to compare their perceptions of the quality of the proposals by using a common set of criteria. The following criteria might be applied to 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 (as contained 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. The scoring table also 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, and other matters relevant to preparing an EMP.
 - 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.

- Preparing an EMP should be a collaborative process between the First Nation and the consultant. Nonetheless, standard project management practices should apply. The First Nation’s project manager should obtain answers to the following questions 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 changes to the work program required to respond to new circumstances? Is the consultant willing to exercise necessary flexibility?
- Does the consultant obtain approval for changes before undertaking new work?
- 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?
- Do the deliverables meet expectations?

F. DETERMINING REASONABLE COSTS OF PREPARING EMPs

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.
- Other studies that could support an EMP are 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 with a new



Land Code, 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 much information from many sources. Where future 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 in developing 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 the 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 (unless the detail is a template from other sources).
- 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? Although it is a bit backwards, the cost of preparing an EMP may be determined by the amount of funding INAC provides for such work. For example, several years ago the British Columbia region of INAC earmarked specific fund limits for preparing EMPs. Not surprisingly, the amounts provided by INAC formed a significant portion of the costs incurred by First Nations to prepare EMPs under that program.

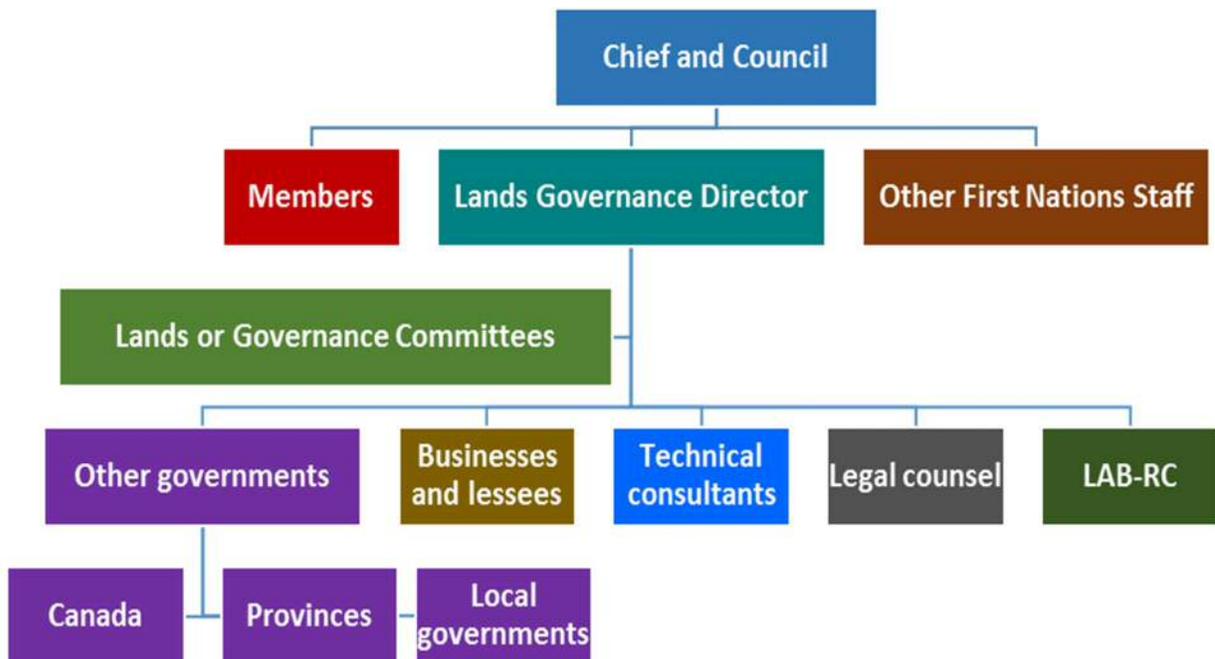
With all of those caveats, how much should a First Nation budget to prepare an EMP? Every First Nation should plan on community involvement, technical studies, and legal review of its EMP. Including those tasks, a "simple" EMP, with relatively few issues and associated policies, could probably be prepared for less than \$100,000. For "average" EMPs, with specific policies and action items for reserves with a mix of land uses, a budget of \$100,000 to \$150,000 would be appropriate. Larger budgets should be anticipated for EMPs that are more complex. If ESAs or other environmental investigations are required to support an EMP, the costs could easily exceed \$250,000.

G. ORGANIZING THE EMP PARTICIPANTS

The success of a plan as broad as an EMP requires involvement of many people and organizations. Figure 1 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.

More information on EMP organization can be found in the LABRC courselet at http://www.labrc.com/public/courselet/EMP_Preparation_Courselet_Final/player.html

Figure 2. Participants in preparing and implementing an EMP



As an aid in establishing how these parties will participate in preparing and implementing an EMP, Table 1 lists the main responsibilities of key participants. 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
Chief and Council	<ul style="list-style-type: none"> » Main First Nation decision maker and accountable authority that approves and adopts the EMP, laws, regulations, and policies » Approve work programs and budgets » Endorse government-to-government agreements
Lands Governance Director	<ul style="list-style-type: none"> » Liaison with Chief and Council » Prepares work programs and staffing plans before Environment Manager is hired; supervises Environment Manager » Coordinates interdepartmental relationships » Guides selection, hiring, and management of consultants
Environment Manager (If a First Nation has no Environmental Manager, the Lands Governance Director assumes these roles.)	<ul style="list-style-type: none"> » Oversees preparation and implementation of Environmental Management Plan » Prepares detailed implementation procedures » Prepares annual work plans and budgets » Implements elements of Environmental Management Plan » Coordinates community outreach and education, or supports staff and consultants in that role » Communicates with other government agencies » May deliver some environmental services (e.g. monitoring, restoration or environmental assessments)
Lands or Governance Committee (If a First Nation has no Lands Committee or equivalent committee, the Lands Governance Director assumes these roles.)	<ul style="list-style-type: none"> » Identifies environmental issues and responses » Participates in preparation and periodic review of the draft Environmental Management Plan » May assist in facilitating community consultation on the Environmental Management Plan » Makes recommendations to Chief and Council on the final draft of the Environmental Management Plan » Plays a key role in the ongoing implementation of the Environmental Management Plan
Other First Nations departments	<ul style="list-style-type: none"> » Support elements of Environmental Management Plan that are relevant to their mandates » Share information, and collaborate with staff of the Lands and Environment Departments

Community members	<ul style="list-style-type: none"> » Contribute knowledge about lands and resources » Articulate environmental values of the community » Help identify environmental issues and suitable responses » Discuss and validate responses to environmental issues » Discuss and comment on draft Environmental Management Plan » Approve laws for enactment as per Land Code procedure » Understand, support, and comply with environmental laws, regulations, and policies
Elders	<ul style="list-style-type: none"> » Can share in-depth understanding of traditional ways and resources » Familiar with the history of changes in environmental conditions on reserves » Understand cultural practices and values associated with environment and resource use » Enhance the value and legitimacy of the EMP for other community members
Consultants and legal counsel	<ul style="list-style-type: none"> » Provide technical support to First Nations staff in preparing and implementing the Environmental Management Plan » Design and conduct specialized studies (ESAs, risk assessments, emergency response plans, economic analysis, urban design, land use plans, etc.) » Draft First Nations' laws permitted by the <i>Framework Agreement</i> and authorized by the EMP
Lease holders or other on-reserve businesses	<ul style="list-style-type: none"> » Review and comment on draft Environmental Management Plan and laws » Understand and comply with environmental laws, regulations, and policies
Other First Nations and First Nation organizations	<ul style="list-style-type: none"> » Share approaches to environmental planning and management » Provide mutual support for preparing and implementing EMPs » Collaborate on multi-First Nation initiatives related to environment and the <i>Framework Agreement</i>
Land Advisory Board-Resource Centre	<ul style="list-style-type: none"> » Provide technical support and information and guidance materials on environmental planning and management » Provide examples of environmental plans and laws adopted by other First Nations
Provincial agencies	<ul style="list-style-type: none"> » Advise on the use and effectiveness of provincial environmental programs, policies, laws, and regulations. » May be contracted to provide specific services to a First Nation » Monitor and enforce environmental and other laws on provincial lands outside of reserves » Collaborate with First Nations on management of water and other "shared" resources » Source of regulations and standards that a First Nation may adapt

<p>Indigenous and Northern Affairs Canada</p>	<ul style="list-style-type: none"> » Source of funds for developing and implementing a Land Code, EMP, and laws » Applies Indian Act sections not affected by the <i>Framework Agreement</i> » Provides information on past environmental issues on the reserve lands » Fulfills responsibility to manage past environmental issues on reserve lands » Provides courses and other training and capacity opportunities
<p>Other federal agencies (DFO, Health Canada, etc.)</p>	<ul style="list-style-type: none"> » Responsible for enforcing federal laws on reserves (e.g., Fisheries Act, Migratory Birds Protection Act, Canadian Environmental Protection Act, Pest Control Products Act) » May continue to deliver services on reserve, consistent with agency mandates and authority » Conduct environmental assessments under Canadian Environmental Assessment Act during transition period, and in specific circumstances thereafter » Source of regulations and standards that a First Nation may adopt
<p>Municipal and regional governments</p>	<ul style="list-style-type: none"> » Share local experience responding to environmental issues » Negotiate agreements with First Nations for provision of services or environmental support (e.g., solid waste management, sewer and water, building inspection, land use planning) » Build mutual understanding and support for improving environmental quality » May collaborate with a First Nation in preparing and implementing an EMP, Official Community Plan. » May consult with a First Nation as local government prepares community plans, regional plans, or servicing plans, or makes major land use decisions. » May collaborate with First Nation on management of shared services (e.g., solid waste, water, and sewer) and resources



H. PREPARING THE EMP

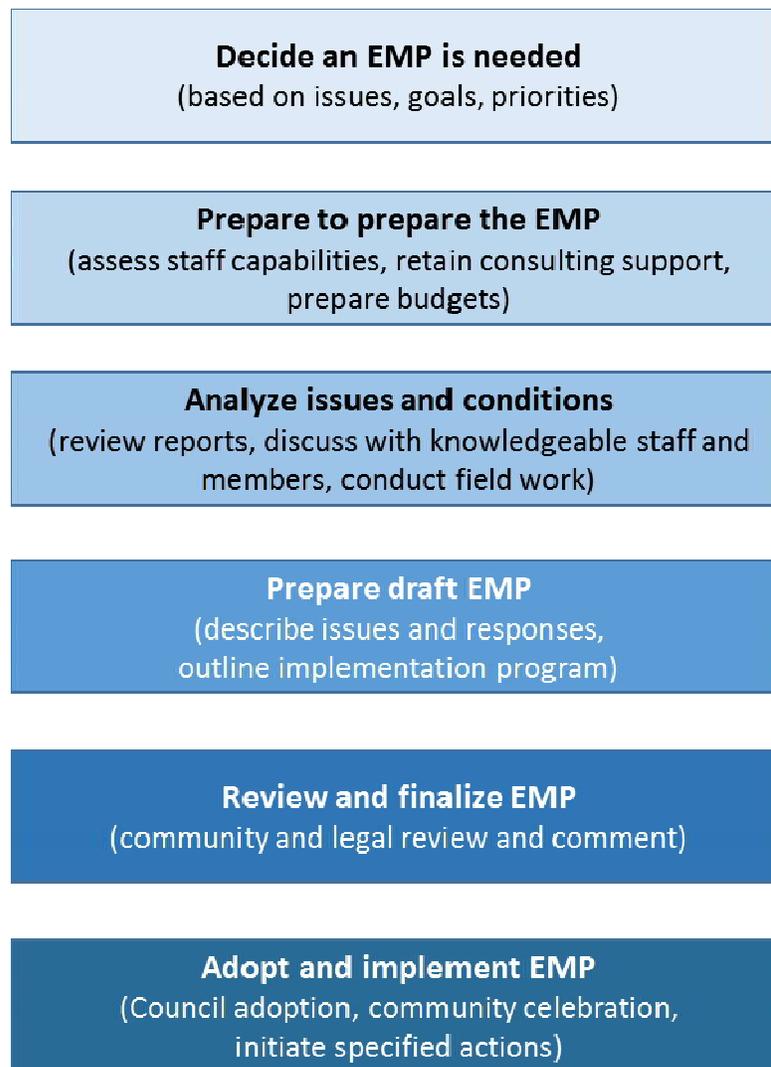
LABRC Courselets (which can be accessed using the link below) provide information about how to prepare an EMP:

[<http://www.labrc.com/public/courselet/>]

This report elaborates on the courselet's directions for preparing an EMP.

Figure 3 outlines the main steps involved in planning for, and preparing, and EMP. Note that a First Nation may decide that some of the steps can be skipped or amended to suit local conditions. More detail is provided on EMP preparation in the text following the figure.

Figure 3. Main steps in preparing an EMP



H.1. Identifying conditions and issues

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

- What environmental conditions on reserve have been documented by past studies?
- What environmental information did Indigenous and Northern Affairs Canada (INAC) collect before the First Nation adopted a Land Code? Has that information been provided to the First Nation?
- Did INAC effectively respond to past environmental issues on reserve lands? What is INAC's plan to remedy or monitor those issues?
- 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?
- What environmental issues are likely to arise as a First Nation implements its Land Code? What environmental issues may be raised by future development on First Nations land?
- What provincial and federal environmental regulations presently apply on the reserve? Do regulatory gaps exist? Are existing regulations effective in managing environmental issues? What would be the implications of adopting or adapting provincial regulations on reserve?
- How familiar are the First Nation staff members with environmental issues and responses?
- 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 does the community's Land Code or Individual Agreement say about the environment?
- With answers to these questions in hand, the First Nation and its consultant can refine the work program for preparing the EMP.

H.2. 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, those groups must understand and support environmental management and land governance. It has been said that without involvement there is no commitment, so a broad range of groups must be involved in preparing the EMP.

Through their Land Code processes, Operational First Nations will have experience organizing community meetings, explaining complex information, and eliciting input from members. A First Nation should use techniques that proved effective in their community for reaching the

membership to explain why an EMP is needed, obtain input on environmental issues requiring action, and build support for adopting and implementing the EMP.

A First Nation should consider community meetings, workshops, open houses, and surveys to engage members in the EMP effectively. Group-specific meetings (e.g., youth, elders, businesses) may be useful, too.

H.3. Intellectual property and Aboriginal Traditional Knowledge

The Assembly of First Nations website provides the following definitions:

“Aboriginal Traditional Knowledge (ATK) is knowledge owned by Indigenous peoples which differs from nation to nation and is a key component to their culture. ATK has traditionally been protected by the community on a collective basis and is subject to the context in which it is being used.”

“Intellectual Property is the legal ownership of a unique creation”, usually by an individual.

When, for instance, elders provide information about environmental conditions or cultural practices, they are sharing ATK. This information may be considered intellectual property, even though the information is held by a group rather than an individual. Because an EMP will be a public document, a First Nation should ensure that confidential ATK is not compromised by preparation or release of the EMP.

A First Nation will need to decide whether obtaining ATK for use in environmental management planning requires payment of a financial benefit to the elders sharing their knowledge. It is often traditional protocol to request cultural information from elders by way of tobacco and, if they agree to participate, provide compensation via honoraria or some other method. Is payment for ATK also appropriate if the information is used to benefit the First Nation itself, as in an EMP? The approach to ATK compensation should be based on precedents in the First Nation, the nature of the information being shared, and the circumstances of elders involved.

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

- 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 ATK, elder involvement, and management and protection of culturally important areas and activities.

H.4. Identifying topics to be included

Aside from the two topics required by the *Framework Agreement* (environmental assessment and environmental contamination), a First Nation should determine what environmental issues need to be addressed in the EMP. Important environmental issues may be identified by community members, by staff, or as the result of technical studies, such as ESAs or EAs.

Examples of EMP content can be seen in the Tables of Contents for two adopted EMPs presented in Appendix A.

“Environment” is a broad concept, and associated issues generally include human and natural environments. For the purpose of preparing an EMP, some examples of environmental issues 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 woodstoves, 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,
- Pests issues (e.g., rats in landfills, flies from agricultural operations) or
- Land development that does not adequately consider or protect the environment.

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

Environmental issues should be described in specific terms, and identify causes, not just symptoms. Such 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.”

The number of issues to be included in the EMP should be kept within reasonable limits. Many issues may be identified by the parties involved in the EMP, but not all of them are necessarily environmental 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 Band procedures 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 expand. As a common maxim says, “Long lists don’t get done”. For examples of the numbers of environmental issues contained in EMPs, please review the example Tables of Contents in Appendix A.

H.5. Off-reserve environmental issues

It is not uncommon for off-reserve conditions or human actions to have environmental effects on reserve 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.

A First Nation’s authority to manage its lands and environment under the *Framework Agreement* applies only to reserve lands. Hence, policies or regulations that are implemented by a First Nation cannot be applied off-reserve. An EMP, nonetheless, can address such issues in several ways, including:

- Documenting that an environmental issue exists and that its likely cause is off-reserve activities,
- Identifying the agencies involved in regulating the off-reserve activity (i.e., provincial environmental or 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 attempt to develop a suitable response.

If the off-reserve environmental issue pre-dates a First Nation’s Land Code or if federally-regulated resources are affected (e.g., fish, species at risk), the EMP can specify that Canada should fulfil its responsibility to participate in resolving such issues or to compel other authorities to take action. Provinces or local governments may be responsible for regulating off-reserve land uses, so those bodies may need to participate in controlling 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.

If off-reserve developments are anticipated to affect the environmental conditions on reserve, then an EMP should identify those potential effects and recommend suitable responses. Communication between the First Nation and regulators or proponents of the off-reserve development is a necessary part of managing such issues. For instance, a First Nation noted that bridge construction upstream of its reserve affected erosion rates where the river crosses the reserve. Through early engagement with the bridge planners and designers, the erosion problems may have been avoided.

H.6. Developing 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 consider the best response to each issue.

Laws are necessary when enforcement and legal power are needed to respond to an issue. The *Framework Agreement* specifies that environmental assessment and environmental protection regimes will be implemented through First Nations laws. These regimes should include such measures as outreach, policies, and procedures. Except for environmental protection and environmental assessment, most issues identified in EMPs can be managed without laws.



The following methods can be applied in responding to many environmental issues:

- Policies to be adopted by a First Nation, which might identify how Band services will be delivered or how members are expected to behave with regard to the environment,
- Applying accepted government or industry guidelines or standards (for, say air or water quality or fuel storage),
- Adopting 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,
- Applying traditional knowledge or practices in ways that avoid or reduce identified environmental problems,
- Using education and outreach to explain the EMP policies, actions, and expected changes in behaviour to correct environmental problems, and
- Drafting laws for issues requiring the ability to enforce compliance.
- The responses selected 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.

A First Nation should collaborate with other First Nations, jurisdictions, and government agencies as it develops responses to environmental issues. Staff of nearby municipalities may have experience managing issues of water quality, solid waste management, or land development that could be adapted for use on a First Nation's land. Provincial or federal agencies, too, may be able to suggest ways of dealing with identified environmental issues. Two or more First Nations may be able to collaborate in developing and implementing responses to similar environmental issues.

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

To manage strictly technical environmental topics (such as fuel storage tanks or wastewater systems), INAC suggests applying 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. For topics that are non-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.

H.7. ISO-based Environmental Management Systems

The International Standards Organization (ISO) was formed in 1946 to establish uniform standards for industrial products. ISO has evolved into a Geneva-based "independent, non-governmental international organization with a membership of 162 national standards bodies. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges."

The Canadian Standards Association (CSA), formed in 1919, is an ISO member organization and performs similar functions. The ESAs conducted on First Nations' land typically comply with approaches to identifying contaminants published by CSA. In 2014, CSA had more than 1,600 employees and annual earnings exceeding \$183 million.

Though primarily focused on establishing standards for manufactured goods, ISO and CSA also have developed standard procedures for activities undertaken by businesses and organizations. The standards marketed by CSA that apply to activities include:

- Environmental Management Systems (ISO 14001)
- Greenhouse Gas Management and Carbon Accounting (ISO 14064)
- Energy Management Systems (ISO 50001)
- Organizing Sustainable Events (Z2010).

To use these systems, an organization must purchase materials from CSA. People interested in learning about CSA-based EMS can take courses offered by the organization, potentially leading to certification.

An Environmental Management System (EMS) should not be mistaken for an EMP. For example, EMSs used by corporations may reduce energy use, generation of waste, or material used in shipping products. Hence, an EMS could be useful as a recommended response to certain environmental issues identified in an EMP. For instance, an EMP might identify

excessive use of energy and paper in First Nations administration as an environmental problem, and suggest the use of an EMS to develop solutions. The First Nation could then purchase the guides and services from CSA, or enroll a staff member in EMS training. Consultants also offer CSA-linked services.

H.8. Ensuring the EMP contains appropriate levels of detail



Some EMPs contain extensive detail in the form of “standard operating procedures” or similar instructions for day-to-day activities on a reserve. Such plans also often include a “component environmental management plan” for each identified issue.

Other First Nations use the EMP as an opportunity to establish goals and objectives for environmental quality, organize and clarify the environmental issues they face, and specify future actions to be taken.

Details may be contained in appendices that can be separated from the plan itself. These EMPs are a brief

document meant to communicate the First Nation’s environmental management program to members, businesses, and other governments.

Though there is no “right” or “wrong” approach to EMP content, some guidelines 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 excessive technical jargon, “legalese”, or extraneous detail. Formats should be chosen that facilitate understanding and use of the EMP.

H.9. What the EMP should say about implementation

An EMP should be an implementation-focused document. This means that the EMP’s content and presentation should facilitate implementation by answering such questions as, “what needs to be done,” “when will these actions occur” and “who is responsible for the actions”?

The responses to the environmental issues identified in the EMP should be capable of being implemented by the First Nation or another responsible party. If organizations other than the First Nation are identified as responsible for actions, those bodies need to be contacted during preparation of the EMP to discuss and confirm their roles in implementation.

The EMP should propose a schedule or sequence of actions that respond to identified issues. Some actions need to be taken first, either because the issues are more pressing or because the actions provide groundwork for later steps. All of the issues contained in an EMP should be important, so referring to some issues as “high priority” may be misleading. “Sequence” is a better term to apply to creating an implementation schedule.

For some issues, further study may be required to understand the extent or nature of the problem or to determine the best management response. In such cases, EMP implementation may specify investigations to be conducted before a response to the issue itself can be prepared. For example, if only a Phase I ESA was conducted 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.

H.10. Enforcement and adjudication of laws

The *Framework Agreement* anticipates the need to enforce environmental protection laws, and establishes a baseline for standards and punishments, saying:

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 in which the First Nation is situated.

Clause 19.1 of the *Framework Agreement* also discusses the punishments that Land Code First Nations may use to achieve compliance with their laws.

First Nations regularly ask about reasonable and effective ways of enforcing their environmental laws (not just environmental protection laws), and adjudicating violations. First Nations across Canada have adopted a variety of approaches to law enforcement and adjudication. This guide provides only general guidance 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 after considering findings of LABRC studies or some other appropriate process.

A First Nation's legal counsel may recommend using enforcement and adjudication processes that can be delivered by the First Nation or that represent current practice and are accepted in local, provincial, or federal courts. A First Nation should note that going to court is expensive, slow, and harmful to relationships among the litigating parties. Particularly for environmental laws, a First Nation's enforcement approach should emphasize the following measures:

- education and provision of information,
- persuasion,
- verbal and written warnings,
- administrative measures (such as stop work orders and seizure of goods),
- mediation,
- traditional cultural measures, such as Elders' committee hearings, or
- other means of attaining compliance.

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

I. ADOPTING AND IMPLEMENTING THE EMP

Plans are only useful if they are implemented. 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 all of a First Nation's environmental goals and objectives are met, which could be a very long time.

I.1. Adopting the EMP

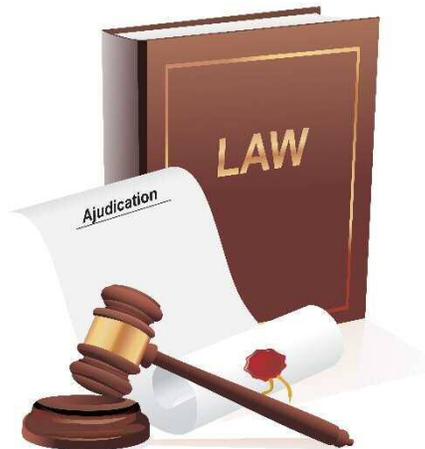
A First Nations should take the draft and final EMP to the membership for review and discussion. When the EMP has been revised to respond to community concerns and is considered complete by a First Nation's advisory committee, it is probably ready to be adopted. Land Codes may contain sections specifying how documents such an EMP should be adopted.

If the Land Code does not specify how to adopt an EMP, several alternatives are available. Chief and Council could adopt the EMP through a Band Council Resolution or by simply voting to adopt the plan. Another 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 recognized as a document 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.

I.2. Drafting environmental laws

At a minimum, a First Nation will need to consider drafting laws dealing with environmental assessment and environmental protection (contamination). An EMP is likely to identify other issues for which laws are part of an effective response. The process of drafting laws should involve the First Nation and its technical consultant to specify what the laws should try to achieve. Legal counsel should be asked to draft laws that respond to the identified environmental issues, will be enforceable, are understandable by First Nations' membership, and will be useful in court.



The lawyer should be asked to review environmental laws adopted by other First Nations and those adopted by local governments and provinces. The approaches taken by such organizations or specific sections of their laws 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 precedent. Such laws may be ineffective, excessively bureaucratic, or expensive to enforce. It may be difficult or costly to monitor compliance or test effectiveness of others' laws as they apply to First Nations land.

Special care must be taken in drafting laws dealing with environmental assessment. The *Framework Agreement* specifies that a First Nation's EA law must be "consistent" with Canada's and the EA regime must be "harmonized" with those of the Provincial and Federal governments. Senior governments' environmental assessment processes are slow, expensive, and do not guarantee protection of the environment. These laws should not be mimicked by a

First Nation. Rather, an approach to environmental assessment should be developed that is consistent with the capacity of a First Nation to deliver, and that focuses on identifying impacts and mitigation measures honestly and efficiently.

The process of law drafting should include a review of similar laws in adjacent jurisdictions. 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 legally consistent with neighbours' laws.

I.3. Getting word out...Communicating the EMP

After adopting its EMP, a First Nation should make sure that others know about the plan. This communication is important for several reasons:

- The EMP can help make other governments, regulators, and others aware that the First Nation is actively exercising its authority to govern its lands,
- First Nation members need to understand, celebrate, and support the content of the EMP,
- 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.



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 group sessions often work well. To reach other governments or businesses, written communication may be appropriate.

A First Nation may consider preparing a brochure or similar brief summary of the EMP. Such a concise document provides an announcement of the plan and its main themes. For some audiences, such summary information may be sufficient. The summary should provide the reader with instructions for obtaining more detail if desired.

The communication program should be designed as soon as the EMP is adopted, with implementation to proceed quickly thereafter. The First Nation may conduct the outreach and materials preparation independently, or it may choose to involve the consultant involved in the EMP to support preparation of the summary and delivery of the EMP “message” to the various audiences.

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 either in school classrooms or in First Nations youth groups can bring wide benefits.

I.4. Implementation--Phasing and organizing

Implementing the EMP will be a long-term, multi-year endeavor. The EMP itself should contain a strategy for implementation. After a First Nation adopts its EMP, it may need to refine the schedule for implementation, considering:

- Which actions need to be taken first,
- The parties (staff, consultants, lawyers, other governments) involved in such actions, and
- Availability of resources needed to take the needed actions.

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.

A few hints to implementing a plan can help ensure that the goals of the EMP are achieved.

- a. Assign responsibility. The Lands Governance Director, Environmental Technician, or some other First Nation staff member needs to be assigned responsibility for implementing the plan. Without clear responsibility, the EMP is likely to sit on a shelf.
- b. Recognize and overcome resistance. Opposition by individuals or groups can derail the plan. Do not underestimate this risk. Be aware of the sources and causes of opposition to the EMP, and find ways to respond. For instance, the EMP may call for changes to the operations of some First Nations departments, which may lead to staff resistance. The staff member(s) having primary responsibility for implementing the EMP should explain the EMP to other departments and explain that the plan has support from Council and membership. If compliance still is lacking, direct instructions from Chief and Council to the uncooperative staff may be needed. First Nations staff or Council also would need to address opposition to the EMP from community members or businesses.

- c. Build alliances. Some groups or individuals may support the entire EMP, whereas others may care only about portions of the plan. Operators of domestic water utilities, for instance, may be most interested in sections of the EMP that deal with contamination issues, whereas the Economic Development Officer may care most about the environmental assessment process. It is important to cultivate relationships with single-issue groups as well as those with broader interests. A strong “constituency” for EMP implementation will pay many benefits.
- d. Look for ways to achieve EMP goals through others’ initiatives. Operational First Nations take action on a number of topics, including economic development, land use planning, housing, services, and training. If the goals of those initiatives are consistent with those of the EMP, seek ways of collaborating with other departments and staff on programs, outreach, regulation, or other activities. Mutual support can strengthen all initiatives.
- e. Be prepared to adjust course. As plans are implemented, conditions will change and different ways of achieving specified goals may be identified. Not only will environmental conditions change, but organizational flux also will occur. Staff turnover, political change, shifting (or shrinking) budgets, and other events will affect implementation of the EMP. Be ready for these changes and do not be afraid to adjust the implementation program. The EMP is, after all, just a plan.
- f. As the EMP is implemented, lessons will be learned about responding to the issues specified in the plan. It is reasonable to act on that new understanding, so flexibility should be built into the implementation program.



J. MONITORING PERFORMANCE AND IMPROVING THE EMP

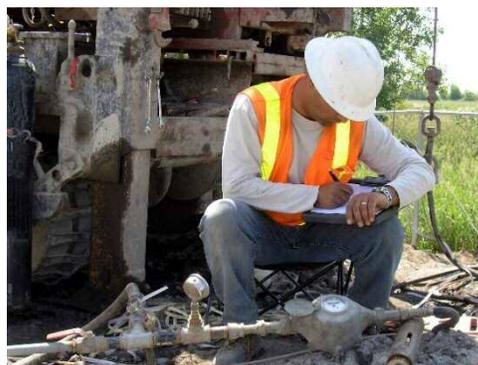
At regular intervals (typically every five years), the EMP should be subject to monitoring and evaluation. Based on this performance review, the plan may be amended.

Both the plan and environment should be monitored. In monitoring the plan, several questions should be answered:

- How much effort has gone into the plan (staff time, consultant effort, budget allocations, purchases)?
- What has the plan achieved (meetings held, products 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?
- The condition of the environment also needs to be included in the monitoring program by obtaining answers to the following questions:
- Have the environmental issues identified in the EMP been improved by plan actions?
- Have new environmental issues arisen since the EMP was prepared?
- How has the overall environmental quality of the First Nations lands changed since adoption of the EMP?
- How might a revised EMP address new or ongoing environmental issues?

With the results of the monitoring effort in hand, the First Nation can decide what amendments to the EMP are needed. In some cases, only minor changes may be required. In other circumstances, the vision, goals, issues, and responses may need thorough revisions. Such revisions should consider ways of improving the efficiency and effectiveness of planned actions.



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. Depending on the severity of the new issue (e.g., threats to environmental or human health), a First Nation can develop and implement a specific response.

An EMP can be a wonderful tool for First Nations in improving the quality of their lands and communities. Preparing the plan can engage the community, encourage people to think about important issues, and empower First Nations members to take individual responsibility for their environment. Understanding and applying the suggestions presented in this guide can help First Nations to avoid known obstacles to preparing EMPs, making the planning experience more rewarding and productive.



APPENDIX A: EXAMPLES OF EMP CONTENTS

As an aid to First Nations in designing their EMPs, this Appendix presents the Tables of Contents for EMPs prepared by the Matsqui First Nation and the Sc̓i̓ąnew First Nation. The contents show two approaches to the plans, the Matsqui's being more policy-based (environmental issue-response-action) and the Sc̓i̓ąnew relying more on standard operating procedures. The examples identify the environmental issues determined by each First Nation to be important to their communities. Each First Nation that prepares an EMP will need to identify their own individual set of important environmental issues and responses to those issues.

Matsqui First Nation Environmental Management Plan

- 1.0 ENVIRONMENTAL MANAGEMENT PLAN INTRODUCTION AND PROCESS
 - 1.1 Introduction
 - 1.2 Preparation of the Environmental Management Plan
 - 1.3 Meetings and community consultation

- 2.0 ENVIRONMENTAL MANAGEMENT PLAN GOALS, OBJECTIVES, AND ISSUES
 - 2.1 Goal of environmental management
 - 2.2 Objectives
 - 2.3 MFN environmental issues
 - 2.4 MFN potential responses
 - 2.5 Education and outreach
 - 2.5.1 Purpose
 - 2.5.2 Communication plan

- 3.0 RESPONSES TO ENVIRONMENTAL ISSUES
 - 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 Sewage treatment and disposal
 - 3.3.1 Sewage 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 Species at risk issues
 - 3.6.2 Responses
 - 3.7 Land contamination

- 3.7.1 Land contamination issues
 - 3.7.2 Responses
 - 3.8 Agricultural practices
 - 3.8.1 Agricultural practice issues
 - 3.8.2 Responses
 - 3.9 Water management
 - 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 Response
- 4.0 PLAN IMPLEMENTATION
 - 4.1 Environmental governance structure
 - 4.2 Drafting of environmental laws
 - 4.3 Capacity building and staff training
 - 4.4 Implementation schedule
- 5.0 REFERENCES

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APPENDIX B: SAMPLE JOB DESCRIPTIONS

Environmental Manager

The First Nations environmental manager co-ordinates the components of the First Nation Environmental Management Plan (EMP).

Environmental managers must be able to identify and resolve a variety of environmental problems. Environmental managers will co-ordinate the efforts of operational staff, while working with Chief and Council, federal, provincial, and municipal bodies, developers, and others on a regular basis. They will need to understand political, social, legal, and economic issues, as well as aspects of environmental science and technology. Environmental managers will be expected to act as environmental leaders in their communities.

Duties:

- Oversee the implementation of the First Nation's EMP, including drafting laws deemed necessary by the EMP, Environmental Assessment, land use controls, sustainability initiatives, and environmental aspects of day-to-day reserve operations.
- Co-ordinate all aspects of environmental management on-reserve, including resource extraction, pollution reduction, waste management, development controls, environmental health, risk assessment, and remediation of contaminated sites.
- Serve as the administrator for environmental programs for the First Nation, including preparation of budgets, staffing plans, and capital plant.
- Oversee the issuance of permits, which may be prepared by the Environmental Technician.
- Review development applications and prepare summaries for Chief and Council.
- Co-ordinate compliance with, and monitoring of, environmental legislation.
- Oversee pollution control, pollution prevention, recycling programs, or other EMP components.
- Evaluate best management practices and emerging technologies and provide technical and general information to other First Nations staff, Council, and community members.
- Oversee auditing and reporting of environmental performance, providing results to internal and external bodies, as required.
- Manage enforcement, mediation, prosecution, and adjudication actions.
- Identify, assess, and reduce First Nations environmental risks and financial costs associated with environmental matters.
- Incorporate relevant aspects of environmental laws and policies (the First Nation's and others') and best management practices into First Nations operations.
- Develop environmental awareness initiatives for community members and political leaders.

Environmental Technician

Reporting directly to the Environmental Manager, the technician undertakes operational activities required to fulfill the requirements of the Environmental Management Plan (EMP). Activities may include environmental sampling, data analysis, interpretation, reporting, and research. The Environmental Technician conducts site inspections, processes applications for environmental permits, and assesses compliance with laws, regulations, and policies applicable on reserve.

Duties:

- Conduct water, land, and air monitoring programs, reporting results to the Environmental Manager.
- Assist with the delivery of pollution control initiatives.
- Prepare samples for laboratory analysis, whether completed on or off reserve. Aid in interpreting and responding to findings of such analyses.
- Respond to enquiries about permits and regulations, and process applications for permits required by a First Nation's laws.
- Enter environmental data into databases and spreadsheets and carry out data analysis and interpretation.
- Prepare field reports, annual reports and draft staff reports on environmental issues.
- Ensure compliance with environmental elements of land use plans, zoning bylaws, and other regulations through onsite inspections, collection of data and evidence, issuance of citations for violations, and participation in prosecutions as necessary.
- Participate in the conduct of response to environmental emergencies.
- Assist staff with the enforcement of bylaws, legislation, and contaminant source investigations.
- Work with community members and businesses to protect the reserve from environmental contaminants.
- Promote community involvement in environmental management and carry out environmental educational initiatives.
- Assist with the planning of annual budgets and cost estimation for environmental initiatives.
- Provide input for the design and delivery of projects in the environmental program.
- Perform other duties as required

Qualifications:

Environmental technicians should have a firm understanding of environmental legislation and protocols for environmental monitoring, data collection, analysis, and reporting. Credentials that include certifications in relevant fields are desirable. Technicians should be comfortable working with community members, and be able to build effective working relationships with businesses. Environmental technicians should be able to explain specific issues clearly, and prepare reports in an effective manner.

APPENDIX C: 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 some cases, online databases can be searched to identify people and companies with specific credentials and experience.

Note that the following list should not be considered complete; the databases and search services offered by the professional organizations change frequently. If a province is not listed here, registry and search options were not available at the time this report was prepared.

Professional planners:

Canada-wide: For a fee, Requests for Proposals can be posted on the Canadian Institute of Planners website. Details are at <https://www.cip-icu.ca/Hire-a-Planner/Request-for-Proposals#>.

Ontario: <https://ams.ontarioplanners.ca/consultant/directory/>

Manitoba: <http://www.mppi.mb.ca/consultants-directory.asp>

British Columbia: <https://www.pibc.bc.ca/content/planning-consultants> (site “under construction” in 2015)

Engineers and geoscientists:

British Columbia: <https://www.apeg.bc.ca/Member-Directories>

Manitoba: <http://www.apegm.mb.ca/Directory.html>

New Brunswick: <http://www.apegnb.com/en/home/aboutus/findamember.aspx>

Agrologists:

British Columbia: <https://www.bcia.com/about-bcia/find-an-agrologist>

Saskatchewan: <http://www.sia.sk.ca/html/about/Consultant---Contractor-Database/index.cfm>

Manitoba: http://mia.mb.ca/mia_registry.aspx

Ontario: <http://oia.on.ca/find-member/>

Alberta: <http://aia.in1touch.org/client/roster/clientRosterView.html?clientRosterId=243>

Biologists:

British Columbia and Yukon: <https://professionalbiology.com/about/find-a-consultant>

Alberta: <https://www.aspb.ab.ca/member-roster>

Quebec: <http://www.abq.qc.ca/>

Canada-wide: <http://www.cseb-scbe.org/index.html> (may need to contact the organization directly for register of members)

APPENDIX D: CONSULTANT OR STAFF CREDENTIALS FOR SPECIFIC ENVIRONMENTAL ACTIVITIES

Topic	Fields of knowledge or training	Professional credentials
Environmental planning	Planning, various environmental sciences, data collection and report preparation	Registered Professional Planner (RPP); Member, Canadian Institute of Planners (MCIP)
Species at risk, habitat	Biology, ecology	Registered Professional Biologist (R.P.Bio.), Professional Biologist (P.Biol.), or related, Environmental Professional (EP) in relevant field; Certified Wildlife Biologist; Associate Wildlife Biologist
Contamination and remediation	Chemistry, risk management, engineering and geoscience, soil science	Member of Contaminated Sites Approved Professionals (CASP) Society; Professional Engineer (P.Eng.);
Water quality or management	Hydrology, civil engineering, public health, biology	Member, Canadian Water Quality Association; member, Canadian Association on Water Quality (CAWQ, ACQE); P.Eng. (civil), R.P.Bio., Certified Erosion Sediment Storm Water Inspector (CESSWI)
Wastewater	Sewer system and wastewater management	Holder, wastewater management certificate (provincial); P.Eng. (civil)
Soils, agriculture	Soil science, agronomy	Professional Agrologist (P. Ag.), Certified Agricultural Consultant (CAC); Certified Agricultural Advisor (CAA); Certified Crop Advisor (CCA); Certified Professional in Erosion and Sediment Control (CPESC)
Trees in communities	Arboriculture	International Society of Arboriculture Certified Arborist (ISA Certified); Tree Risk Assessor Qualification (TRAQ); R.P.Bio., P.Ag.
Forestry	Forestry, geoscience, biology	Registered Professional Forester (RPF), ingénieur forestier (ing.f.); P.Eng., R.P.Bio.

Fish, fish habitat	Biology, ichthyology	Certified Fisheries Professional (CFP); Associate Fisheries Professional (AFP); R.P.Bio.; EP in fisheries
Land use, community design	Planning, urban design, architecture, landscape architecture	RPP, MCIP, licensed under a provincial architectural licensing authority; Member of provincial landscape architecture organization; LEED Accredited Professional (AP);
Community involvement	Planning, sociology, communications	International Association for Public Participation (IAP2); RPP; MCIP; Certificate in Communications (various institutions)
Mapping	Cartography, computer mapping, geography	Canadian Institute of Geomatics (CIG) Certification; ESRI Certification; Geographic Information System Certification (GISC); Information Mapping Certification; GPS and GIS Certification; Degree in relevant field



APPENDIX E: EXAMPLE OF CONTENTS FOR A REQUEST FOR PROPOSALS TO PREPARE AN EMP

- Introduction and context
 - » Description of First Nations community (name, population, area in hectares, location, summary of land uses on reserves)
 - » Governance structure relevant to the study (roles of staff, Chiefs and Council, lands or environment committees, etc. in preparing, adopting, and implementing the EMP. Identify who will manage the EMP project.)
 - » Why an EMP is needed (to identify environmental issues, develop responses, comply with *Framework Agreement*, guide future environmental management activities, etc.)
 - » Scope of services sought (describe what the consultant is to do, either design and prepare an entire EMP or provide specific services, such as collect and analyze environmental information or prepare maps and assemble the report)
- List of relevant reports, maps, etc. (list environmental reports that the First Nation can make available to the successful bidder)
- Deliverables (what products and activities should the consultant provide?)
 - » Draft documents describing environmental conditions and issues
 - » Maps showing location of environmental features and issues
 - » Presentation materials for community
 - » Number of copies of draft and final reports
 - » Numbers of meetings, community presentations, etc. to be held
- Schedule (start-finish dates, interim deadlines for products)
- Criteria to be used to select a consultant
 - » Quality of proposal
 - » Credentials of consultants
- Company background, size, resources, other relevant projects
- Team member education, training, experience, professional registrations
 - » Value for money
 - » Familiarity with EMPs, *Framework Agreement*, local conditions
 - » Other criteria
- Budget or budget range
- Information to be included in proposal
 - » Description of approach to 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 due date (be very specific, listing date and time)
 - » State that late or incomplete proposals will not be reviewed
- Proposal format (how the proposal should be delivered)
 - » Hard copy (with First Nations delivery address and number of copies) OR
 - » Digital (describe format, e.g., MS Word, PDF, etc.)
- Questions and clarifications (provide the name and staff position of the First Nations person to be contacted for RFP questions and clarification, including email address and phone number)





Prepared for:

The First Nations Land Management Resource Centre Inc.

www.labrc.com

Prepared By:

DAVID HARPER