



# Nisqually Indian Tribe

## Debt Collection Policy and Procedure

### § I. Purpose.

The purpose of this policy is to collect monies owed to the Nisqually Indian Tribe. Nothing in this policy shall be interpreted to preclude the Nisqually Indian Tribe from taking other actions outside this policy, including but not limited to lawsuits, in order to collect monies owed.

### § II. Definitions.

As used in this policy, the following terms shall have the meanings indicated:

#### CONTRACT

Includes any agreement between the Tribe and a person where the Tribe makes a payment to the person for goods or services provided.

#### DEBTOR

Those persons who meet the criteria of this policy, listed below.

#### NET PAY

Gross wages minus legally required deductions for federal, state, and social security taxes.

#### DEFAULT

Failure to fulfill an obligation, especially to repay a loan or appear in a court of

#### law PER CAPITA PAYMENTS

Tribal payments made or offered to individual tribal members from gaming revenues or any other source.

### § III. Debtor classification.

The Tribe shall create a list of persons who are debtors. No person shall be placed upon the list unless the following criteria have been met:

A. A director, division designee of the Tribe, or Tribal Court, which is owed money, executes a statement listing the name of the person owing money to the Tribe, the amount of money owed to the Tribe, a narrative surrounding how the debt was incurred and for what purpose, and the date on which the debt was incurred. Director, division designee or Tribal Court shall attach a statement with all pertinent documentation.

B. The Financial Services Department of the Tribe reviews the above-referenced statement and determines that there is sufficient evidence that said person or persons owe the debt claimed; \*

C. A letter has been mailed with first-class postage, and return receipt, to the person at his or her last known address listed with Financial Services, to include the statement referenced in section A above;

D. If the person has not disputed the debt, in writing, to Financial Services, within 10 business days of receiving the letter in section C above, paid the debt in full, made acceptable arrangements to pay the debt, or the person has disputed the debt, but has been determined to owe money to the Tribe pursuant to IV of this policy.

*\*Once a determination has been made by Financial Services on debts owed, the decision cannot be overridden by a director, division designee, Administrator(s), CEO or Tribal Council. The Tribal Court may have the authority through a court ordered decision to make recommendations on repayment of a debt.*

#### **§ IV. Review of disputed amounts.**

Any person who disputes the amount of money owed to the Tribe pursuant to § 111-3B may ask Financial Services designated review board to review the disputed amount and make a determination as to the amount of money owed the Tribe, if any. The person disputing the debt may request a hearing before the review board for the purpose of presenting his or her argument and may bring any relevant evidence to the review board. The director, division designee, Tribal Court of the Tribe who signed the statement in regard to the debt must attend this hearing.

#### **§ V. Maintenance of debtor's list.**

The list of debtors created pursuant to § III of this policy shall be maintained by the Financial Services Department. Said Department shall remove any person from the list who has paid his or her debt in full or has made acceptable arrangements to pay the debt within a one-year period. \*\* Any person removed from the list shall be placed back on the list if he or she fails to meet his or her obligations under said arrangement. Tribal departments shall provide the Financial Services Department with updated information regarding such debts and debtors in a timely manner. The list of debtors shall be provided to all who need the information in order to comply with this policy.

\*\* Debts owing of \$5,000 or less must be paid within a one-year period.

Debts of \$5,000 or more will be reviewed on a case-by-case basis for repayment timelines. No debt repayments are to exceed a three-year period.

#### **§ VI. Contracts.**

No debtor shall be eligible to enter into a contract to provide goods or services to the Tribe for any purpose unless he or she has:

A. Paid the debt owed in full;

B. Regarding a contract where the Tribe is paying the debtor for services performed, agreed to a clause in said contract authorizing the Tribe to withhold the lesser of the

total amount due the Tribe, or 25% of the cost of the contract that is related to services performed; or

C. In regard to any other contract, has signed a payback agreement or wage assignment on terms acceptable to the tribal department or division.

#### **§ VII. Employment.**

No debtor shall be hired as an employee of the Nisqually Indian Tribe unless he or she has paid Nisqually Tribal debt owed in full or has signed a payback agreement or wage assignment on terms acceptable to Financial Services and the tribal departments(s) or division(s) to which they owe money.

New employees with continuing expenses owed to the Tribe must sign a wage assignment, and remain current on the payments as required, pursuant to the assignment or agreement. Debtor cannot remove a wage assignment so long as there is an outstanding debt unless such withholding would violate applicable federal law.

Wage assignments are required for employees with, **but not limited to:**

1. Tribal Housing payments
2. Tribal daycare payments
3. Tribal water payments

#### **§ VIII. Debtors employed by Tribe.**

The Tribe shall withhold 20% of the net pay of any debtor employed by the Tribe unless such a withholding would violate applicable federal law. Said amount shall be applied toward the debtor's debt and withheld until the debt is paid in full.

Withholding may be done pursuant to a wage assignment for an amount and in a form acceptable to the Tribe in lieu of this section if the debtor agrees to such a wage assignment.

#### **§ IX. Default on current or prior wage assignments, promissory notes.**

If at any time a debtor defaults on a wage assignment, promissory note, or any other repayment agreement past or present within the time frame of this policy, made with the Tribe, the Financial Services office has the authority to collect repayment of the debt necessary including Tribal, State or Federal collection processes.

#### **§ X. Per capita payments.**

Financial Services shall withhold any per capita payment due the debtor and apply that amount toward the debtor's debt. The per capita payment shall be withheld and paid over to the Tribe and credited against the debtor's debt regardless of whether the debtor requests the payment or complies with any procedures related to obtaining a per capita payment.

#### **§ XI. General Welfare.**

The debtor list will be reviewed prior to accepting a General Welfare application to ensure debt repayments are not reduced or affected by the application (not applicable to rent or mortgage withholdings).

If debt is incurred after the application has been submitted, the Tribe has the authority to require the debtor redirect General Welfare withholdings to pay back the debt to the Tribe (not applicable to rent or mortgage withholdings).

During annual renewal of General Welfare, the Tribe has the authority to require reduction of the Tribal members rent, mortgage, or stipend withholdings to support repayment of debt owed to the Tribe. (February of each year). The debtor list will be reviewed prior to accepting General Welfare renewal.

**§ XII. Writing off bad debt; use of other means to collect debt.**

Nothing in this policy shall prohibit a department or division from requesting to write off bad debt for accounting purposes. Writing off such debt will not remove a debtor from the debtor's list.

The Financial Services department, which perform significant debt collection activities, may forgo placing an individual on the debtor's list if the costs and efforts to do so outweigh the benefit and the department is using other more effective means, such as a collection agency, to collect the debt. The Financial Services department must have approval through the CFO prior to writing off the debt.

**§ XIII. Multiple debts.**

In the event that a debtor owes more than one debt to a tribal department or division, the oldest debt will be paid first regardless of when the debt was placed on the debtor's list.

**§ XIV. Amendment.**

This Policy may only be amended, or rescinded, by action of the Tribal Council. This policy is retroactive to January 1, 2016