

**THE CORPORATION OF THE
MUNICIPALITY OF TEMAGAMI**

BY-LAW NO. 08-767

**Being a by-law to authorize the Mayor and Chief Administrative Officer to execute
an agreement between the Corporation of the Municipality of Temagami and
Industry Canada, FedNor for the funding of a Feasibility Study for a Long Term
Care Facility in Temagami.**

WHEREAS under Section 8 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other act;

AND WHEREAS under section 401 (1) of the Municipal Act, 2001, S.O., 2001, c.25, as amended, subject to this or any other Act, a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt.

NOW THEREFORE the Council of the Corporation of the Municipality of Temagami hereby enacts as follows:

1. That the Mayor and the Chief Administrative Officer are hereby authorized and directed to execute the agreement attached hereto as Schedule "A" to this bylaw.
2. This bylaw shall come into force and take effect on the 28th day of February, 2008.

BE TAKEN AS READ A FIRST time on this 28th day of February, 2008.

READ A SECOND AND THIRD time and finally passed this 28th day of February, 2008.



MAYOR



CAO/Clerk



industry Canada

FedNor

19 Lisgar Street
Suite 307
Sudbury, Ontario
P3E 3L4

Tel.: 705 671-0711
1 877 333-6673
Fax: 705 671-0717
Web site: fednor.ic.gc.ca

Industrie Canada

FedNor

19, rue Lisgar
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Sudbury (Ontario)
P3E 3L4

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1 877 333-6673
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Site web: fednor.ic.gc.ca

FEB - 8 2008

Project Number: 842-502705

Mr. Brian Koski
Chief Administrative Officer
The Corporation of the
Municipality of Temagami
P.O. Box 220
Temagami ON P0H 2H0

Dear Mr. Koski:

**Re: The Corporation of the Municipality of Temagami
(the "Recipient")**

In response to your application dated August 1, 2007, Her Majesty the Queen in Right of Canada, as represented by the Minister of Industry (the "Minister") hereby offers to make a contribution under the Northern Ontario Development Program Business Plan/Feasibility Study component to the Corporation of the Municipality of Temagami (the "Recipient") for the purposes of the Project described in Annex 1, upon the following terms and conditions.

1 .0 The Agreement

1.1 This Letter of Offer including Annex 1 - The Project - Statement of Work, Annex 2 - FedNor News Release Summary, Annex 3 - Costing Memorandum, and Annex 4 - Applicant Charter upon being unconditionally accepted by the Recipient and duly executed by the Recipient and the Minister, forms a legally binding agreement between the parties (this "Agreement") and supersedes all previous documents and negotiations related to its subject matter.

2 .0 The Project

2.1 The Recipient shall ensure that the Project (the "Project") commences on or before December 17, 2007 (the "Commencement Date") and is completed on or before March 31, 2008 (the "Completion Date").

Canada

- 2.2 The Recipient shall not alter the Consultant or the scope of the Project without the prior written consent of the Minister.

3 .0 The Contribution

- 3.1 The Minister will make a Contribution (the "Contribution") to the Recipient in respect of the Project in an amount not exceeding the lesser of:
- (a) 90% of the Eligible & Supported Costs of \$25,000 of the Project, and
 - (b) \$22,500.

4 .0 Payments

- 4.1 The Minister will pay the Contribution to the Recipient in respect of Eligible Costs incurred, on the basis of itemized claims, which claims shall be:
- (a) submitted not more frequently than monthly;
 - (b) certified by an officer of the Recipient or other person satisfactory to the Minister;
 - (c) accompanied by a report of work completed to date, details of all costs in respect of which payment is claimed, and substantiating documentation as may be required by the Minister.
- 4.2 An initial advance may be made equal to the requirements for 3 months of the Project calculated on the basis of a budget and projected cash flow submitted by the Recipient and approved by the Minister. This advance cannot exceed 75% of the Contribution.
- 4.3 The Minister shall not contribute to the cost of the services of any consultant that is not, in the opinion of the Minister, at arm's length from the Recipient.
- 4.4 The Minister shall not make any payment of the Contribution in respect of costs for which the Recipient has entered into a legal commitment prior to August 3, 2007.

- 4.5 The Minister will not have any obligation to pay more than 90% of the Contribution prior to:
- (a) the Completion Date or prior to the date on which the Project is completed to the satisfaction of the Minister, whichever is the earlier;
 - (b) the Minister's approval of the final claim described in subsection 4.6.
- 4.6 The Recipient shall submit a final claim for payment accompanied by a final itemized statement of all Eligible Costs incurred and paid by the Recipient, and a final report on the Project, within six months of the Completion Date or of the date the Project is completed to the satisfaction of the Minister, whichever is the earlier.
- 4.7 The Minister may require that any claim submitted for payment of the Contribution be certified by the Recipient's external auditor or by an auditor approved by the Minister.
- 4.8 The Recipient shall repay to the Minister any amount by which the Contribution disbursed to the Recipient exceeds the amount determined pursuant to subsection 3.1, together with all interest earned by such excess, promptly, and in any event within thirty days of notice to do so by the Minister. Interest on overdue repayments will be calculated at the Bank rate as defined in the *Interest and Administrative Charges Regulations*, in effect on the due date, plus 3% compounded monthly on overdue balances payable, from the date on which the payment is due, until payment in full is received by the Minister. Any such amount is a debt due to Her Majesty in Right of Canada and is recoverable as such.
- 4.9 If the Recipient earns any interest as a consequence of the advance payment of the Contribution or earns any revenue as a result of the Project or if it receives any revenue from another level of government, the Minister may in its absolute discretion reduce its Contribution by all or by such portion of the revenue (including the interest) as it deems appropriate.
- 4.10 Without limiting the scope of the Set-off Rights provided for under the *Financial Administration Act*, it is understood that the Minister may set off against the Contribution, any amounts owed by the Recipient to Her Majesty in Right of Canada under legislation or contribution agreements and the Recipient shall declare to the Minister all amounts outstanding in that regard when making any claim under this Agreement.

5 .0 Results of the Project

- 5.1 The Recipient shall be the owner of the intellectual property in respect of any works created as a result of the Project. However, the Recipient hereby grants the Minister a free, non-exclusive perpetual and irrevocable licence to use, reproduce, and publish the works.

5.2 For evaluation purposes, the Recipient shall describe how the project met intended results for improved community capacity for socio-economic development by reporting on all the following that apply:

- (a) the number of community plans developed and accepted,
- (b) the number of businesses that benefited from community plans, studies and infrastructure projects,
- (c) the number of temporary jobs created and the number of permanent jobs created and maintained by the businesses or communities as a result of improved community capacity through this project, including those jobs created and maintained for Aboriginal people, Francophones, youth and women (indicate all groups that apply),
- (d) other project outcomes or results.

FedNor will be provided with a copy of the feasibility study completed.

6 .0 Other Government Assistance

6.1 The Minister and the Recipient hereby acknowledge that for purposes of this Agreement no other federal, provincial, or municipal assistance has been taken into consideration.

6.2 The Recipient hereby agrees to inform the Minister promptly in writing of any federal, provincial or municipal government assistance to be received for the Project, other than as may be noted in subsection 6.1, and the Minister shall have the right to reduce the Contribution to take into account the amount of any such assistance that is to be received.

7 .0 Monitoring

7.1 The Recipient shall submit to the Minister progress reports, including a final report, satisfactory to the Minister in scope and detail.

7.2 The reports referred to in subsection 7.1 shall contain information sufficient to allow the Minister to assess the progress of the Project. Upon request of the Minister and at no cost to him, the Recipient will promptly elaborate upon any report submitted.

7.3 The Minister may request that the Recipient submit to him a copy of its financial statements, within 120 days of each Recipient fiscal year end or within such longer period as may be authorized by the Minister.

7.4 The Recipient shall provide to the Minister a copy of any report or publication produced as a result of this Agreement, whether interim or final, as soon as the same becomes available.

- 7.5 The Recipient shall for a period of 24 months after the Completion Date of the Project, at its own expense:
- (a) preserve and make available for audit and examination by the Minister's representatives, proper books, accounts and records of the costs of the Project, wherever such books, and records may be located, and permit any authorized representative of the Minister to conduct such independent audits and evaluations as the Minister in his discretion may require;
 - (b) permit any authorized representatives of the Minister reasonable access to the Recipient's premises to inspect and assess the progress and results of the Project; and
 - (c) supply promptly, on request, such data in respect of the Project and their results as the Minister may require for purposes of this Agreement and for statistical purposes.
- 7.6 The Minister may require that his authorized representative be granted the right to attend as an observer at such meetings as the Minister may deem necessary.

8 .0 Representations

- 8.1 The Recipient represents and warrants that:
- (a) it is a non-commercial or not-for-profit organization and in good standing under the laws of Ontario, and it shall remain as such for the duration of the Agreement. The Charter for this not-for-profit organization is attached to this Agreement by the Recipient as Annex 4;
 - (b) it has the power and authority, and has met all legal requirements, necessary to carry on business, hold property, and to enter into, deliver and perform this Agreement;
 - (c) it is under no obligation or prohibition, nor is it subject to, or threatened by any actions, suits or proceedings, which could or would prevent compliance by the Recipient with this Agreement;
 - (d) the signatories to this Agreement, on behalf of the Recipient, have been duly authorized to execute and deliver this Agreement;
 - (e) it has not directly promised or offered to any official or employee of the Minister, any bribe, gift, or other inducement, nor has it authorized any person to do so on its behalf, for or with a view to obtaining this Agreement;

- (f) it has not, nor has any person authorized to act on its behalf, employed any person to solicit this Agreement for a commission, brokerage or contingency fee, or any other consideration dependant upon the execution of the Agreement; and,
- (g) it has not engaged an unregistered lobbyist or a consultant or other paid advisor who is required to be registered as a lobbyist but has not done so, in order to assist in securing this contribution Agreement.

9 .0 Announcements, Events and other Communications Activities

- 9.1 The Recipient hereby consents to a public announcement of the Project by or on behalf of the Minister in the form of a news release.
- 9.2 The Minister, through Industry Canada/FedNor, shall inform the Recipient of the date the public announcement is to be made, and the Recipient shall maintain the confidentiality of this Agreement until such date.
- 9.3 The Recipient hereby consents to the participation by the Minister or the Minister's representatives at the announcement event of the Project, and to have the event take place on a day mutually agreed upon by the Recipient and the Minister or the Minister's representatives.
- 9.4 The Recipient hereby agrees to display promotional material provided by Industry Canada/FedNor at the event.
- 9.5 The Recipient hereby agrees to place Industry Canada/FedNor logos recognizing the Government of Canada's financial assistance on all Project-related promotional or advertising materials (unless prior exemption is obtained from Industry Canada/FedNor), including, but not limited to, electronic media (web, television, video), and print media (signs, print advertising, brochures, magazines, maps, posters).

This does not apply to advertising related to recruitment or the tendering process, with the exception of recruitment ads placed for Youth Internships.

The appropriate Industry Canada/FedNor logos can be found in various electronic formats at <http://fednor.ic.gc.ca> as part of the Logos and Advertising Templates section.

For assistance with logo placement or inquiries related to communications activities, please contact the FedNor Communications Team at 1-877-333-6673.

10 .0 Official Languages

10.1 Where:

- (a) any notice, advertisement or other matter relating to the Recipient's activities is to be printed in a publication for the information primarily of members of the public who are residents in the community, or
- (b) any services are to be provided or made available by the Recipient to members of the public who are residents in the community,

the Recipient shall make such publications and services available in both official languages if, in the opinion of Canada, there is, or is likely to be, a significant demand therefore.

11 .0 Default

11.1 The following constitute events of default:

- (a) the Recipient becomes bankrupt or insolvent, goes into receivership, or takes the benefit of any statute from time to time in force relating to bankrupt or insolvent debtors;
- (b) an order is made or resolution passed for the winding up of the Recipient, or the Recipient is dissolved;
- (c) in the opinion of the Minister, the Recipient ceases to operate;
- (d) the Recipient has submitted incomplete, false or misleading information to the Minister, or makes a false representation in this Agreement;
- (e) in the opinion of the Minister, there is a material adverse change in risk;
- (f) in the opinion of the Minister, the Recipient fails to meet a term or condition of this Agreement; and
- (g) in the opinion of the Minister, the Recipient has failed to proceed diligently with the Project including, but not limited to, failure to meet deadlines stipulated in this Agreement except where such failure is due to causes which, in the opinion of the Minister, are beyond the control of the Recipient.

- 11.2 If an event of default has occurred, or in the opinion of the Minister, is likely to occur, the Minister may exercise any or all of the following remedies:
- (a) terminate any obligation by the Minister to contribute or continue to contribute to the Eligible Costs of the Project including any obligation to pay an amount owing prior to such termination;
 - (b) suspend any obligation by the Minister to contribute or continue to contribute to the costs of the Project including any obligation to pay an amount owing prior to such suspension;
 - (c) require the Recipient to repay forthwith to the Minister all or part of the Contribution and that amount is a debt due to Her Majesty.

12 .0 Notice

- 12.1 Any notice, information or document required under this Agreement shall be effectively given if delivered or sent by letter, telex or facsimile (postage or other charges prepaid). Any notice that is delivered shall be deemed to have been received on delivery; any notice sent by telex or facsimile shall be deemed to have been received one working day after being sent, any notice that is mailed shall be deemed to have been received eight (8) calendar days after being mailed.
- 12.2 Any notice or correspondence to the Minister shall be addressed to:
- Industry Canada/FedNor
107 Shirreff Avenue, Suite 202
North Bay ON P1B 7K8
- Attention: Northern Ontario Development Program
Business Plan/Feasibility Study component
- or to such other address as is designated by the Minister in writing.
- 12.3 Any notice or correspondence to the Recipient shall be sent to the address indicated on the face of the present Agreement.
- 12.4 Either of the parties may change the address which they have stipulated in this Agreement by notifying the other party of the new address, and such change shall be deemed to take effect 15 days after receipt of such notice.

13 .0 Canadian Goods and Services

- 13.1 The Recipient in purchasing goods and services for the performance of the Project, shall provide a full and fair opportunity for use of Canadian carriers, suppliers and sub-contractors to the extent that they are competitive and available.
- 13.2 Whenever appropriate, giving due consideration to price, quality, service, and cost efficiencies, the Recipient is strongly encouraged to acquire products and services from Northern Ontario suppliers.

14 .0 General

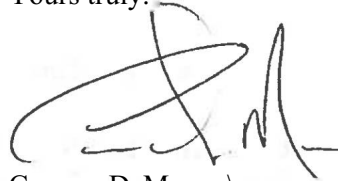
- 14.1 No member of Parliament shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.
- 14.2 The Recipient confirms that no individual for whom the post-employment provisions of the *Conflict of Interest and Post-Employment Code for Public Office Holders* or the *Conflict of Interest and Post-Employment Code for the Public Service* apply, will derive a direct benefit from this Agreement unless that individual is in compliance with the applicable post-employment provisions.
- 14.3 Neither this Agreement nor any part thereof shall be assigned by the Recipient without the prior -written consent of the Minister.
- 14.4 Any payment by the Minister under this Agreement is subject to there being an appropriation for the Fiscal Year in which the payment is to be made; and to cancellation or reduction in the event that departmental funding levels are changed by Parliament.
- 14.5 This Agreement is binding upon the Recipient, its successors and permitted assigns.
- 14.6 This Agreement is a contribution agreement only, not a contract for services or a contract of service or employment, and nothing in this Agreement, or the parties' relationship or actions is intended to create, nor shall be construed as creating, a partnership, employment or agency relationship between them. The Recipient is not in any way authorized to make a promise, agreement or contract or to incur any liability on behalf of the Minister, nor shall the Recipient make a promise, agreement or contract and incur any liability on behalf of the Minister, and the Recipient shall be solely responsible for any and all payments and deductions required by applicable laws. The Recipient shall indemnify and save harmless the Minister in respect of any claims arising from failure to comply with the foregoing.

- 14.7 Subject to the Access to Information Act (Canada), to section 9.0 of this Agreement and to Annex 2, the parties shall keep confidential and shall not disclose the contents of this Agreement or the transactions contemplated hereby without the consent of all parties.
- 14.8 The Recipient shall comply with all federal, provincial, territorial, municipal and other applicable laws governing the Recipient or the Project, or both, including but not limited to, statutes, regulations, by-laws, rules, ordinances and decrees. This includes legal requirements and regulations relating to environmental protection.
- 14.9 This Agreement shall be subject to and construed in accordance with the laws of Canada and of Ontario and the parties hereto acknowledge the jurisdiction of the superior court of such province or territory, as defined in the *Interpretation Act* R.S.c. 1-23, as amended from time to time.
- 14.10 This Agreement constitutes the entire contract between the parties to this Agreement with respect to its subject matter, and supersedes all previous documents and negotiations relating to its subject matter.
- 14.11 This Agreement shall terminate:
- (a) twelve (12) months after the completion of the Project to the satisfaction of the Minister, or the Completion Date, or
 - (b) upon the date on which all amounts due by the Recipient to Her Majesty under this Agreement, have been paid in full, whichever is the latter.
- 14.12 All payments to be made by the Minister to the Recipient pursuant to this Agreement are subject to the required Governmental approvals including Treasury Board. In the event that the Minister is prevented from disbursing the full amount of the Contribution, the Parties agree to review the effects of such a shortfall in the Contribution on the implementation of the Agreement and to adjust, as appropriate, the mutual obligations specified therein.
- 14.13 This Agreement maybe terminated at any time and for any reason on 30 days written notice.

This offer is open for acceptance for 60 days from the date that appears on its face after which time it will become null and void. The date of acceptance shall be the date the duplicate copy of this offer, unconditionally accepted and duly executed by the Recipient, is received by the Minister.

If further information is required, please contact Ms. Denise Deschamps at (705) 494-4222 or toll-free at 1-877-333-6673 in our North Bay office.

Yours truly,



Carmen DeMarco
Manager, Northeast Region
FedNor

The Corporation of the Municipality of Temagami

Project No.: 842-502705

Per: 

(Signature of Recipient's Representative)

(Title)

Per: _____
(Signature of Recipient's Representative)

(Title)

The foregoing is hereby accepted on this _____ day of _____, _____.

THE PROJECT - STATEMENT OF WORK

Recipient: The Corporation of the Municipality of Temagami

Project No.: 842-502705

Project Location: Municipality of Temagami

Purpose/Results: Conduct a feasibility study to establish a long term care facility in the Municipality of Temagami

Timing: Project to commence on or before December 17, 2007 and be completed on or before March 31, 2008.

Program and Financing:

<u>Project Costs:</u>	<u>Financing:</u>	
Eligible Costs	FedNor	\$22,500
-Supported	\$25,000 Provincial	
-Not Supported	Municipal	
Ineligible Costs	Bank	
	Proponent	\$2,500
	Others	
	\$25,000	\$25,000

	<u>Supported</u>	<u>Not Supported</u>	<u>Total</u>
<u>Eligible Costs:</u>			
Consulting Fees	\$25,000		\$25,000
TOTAL ELIGIBLE COSTS	\$25,000		\$25,000
<u>Ineligible Costs:</u>			
TOTAL INELIGIBLE COSTS			nil
TOTAL PROJECT COSTS			\$25,000

Please Note: Eligible Costs include the amount of federal goods and services tax, (GST), net of any refund or eligible credits due from the Canada Revenue Agency.

FEDNOR NEWS RELEASE SUMMARY

Northern Ontario Development Program
Business Plan/Feasibility Study component

Project No.: 842-502705

Name & Address of Recipient:

Recipient Contact:

The Corporation of the Municipality of Temagami
P.O. Box 220
Temagami ON POH 2H0

Ike Laba, Mayor
(705) 569-3421

Brian Koski, CAO
(705)569-3421

Project Location:

Project Type:

Municipality of Temagami

Study

Supported Sector:

Strategic Objective:

Other Services (except Public Administration)

Community Economic Development

Project Description:

Conduct a feasibility study to establish a long term care facility in the Municipality of Temagami.

FedNor Funding
(Authorized Assistance)

\$22,500

COSTING MEMORANDUM
NORTHERN ONTARIO DEVELOPMENT PROGRAM
BUSINESS PLAN/FEASIBILITY STUDY COMPONENT

1 .0 General Conditions

- 1.1** Costs are Eligible Costs for the purposes of this Agreement only if they are, in the opinion of the Minister,
- (a) directly related to the intent of the Project,
 - (b) reasonable,
 - (c) appear in the “Statement of Work”,
 - (d) incurred in respect of activities which are incremental to the usual activities of the Recipient, and
 - (e) incurred between August 3, 2007 and the Completion Date.
- 1.2** Costs incurred by way of the exercise of an option to purchase or hire are eligible only if the exercise of the option is at the sole discretion of the Recipient and the option has been exercised between August 3, 2007 and the Completion Date.
- 1.3** Costs of all goods and services (including labour) acquired from an entity which is, in the opinion of the Minister related to the Recipient, shall be valued at the cost which, in the opinion of the Minister, represents the fair market value of such goods or services, which cost shall not include any mark up for profit or return on investment.
- 1.4** No cost described in section 2.0 shall be eligible for inclusion in Eligible Costs unless the Recipient causes the supplying entity to maintain proper books, accounts and records of the costs related to the Project, and to provide to any representative of the Minister access to such books, accounts and records.

2.0 Eligible Costs

Where consistent with the approved Eligible and Supported costs, as defined in Annex 1 - The Project - Statement of Work, the following criteria will be used in determining eligibility of costs:

2.1 Travel Costs - Prime Transportation

Eligible travel costs are those which are deemed necessary to the performance of the Project. To be eligible, travel costs must be clearly documented as to the purpose of each trip. Travel expenses, at economy rates, shall be charged as at actual costs, but only to the extent that they are considered reasonable by the Department.

Necessary return airfare, train fare or bus fare at economy rates for participation personnel. Where a personal automobile is to be used, kilometre (mileage) allowance will be based on current Treasury Board of Canada Travel Directives. Eligible Costs shall be limited to the cost that would have been incurred and paid had normal public transportation at economy rates been used.

Actual costs at the destination will be allowed for food, accommodation and surface transportation (i.e., taxis, etc.). Meal rates will be based on current Treasury Board of Canada Travel Directives. Please note receipts are required for all items except meals. Entertainment (hospitality) costs are not eligible.

2.2 Audit of Project Costs

If expressly approved in writing by the Department, Eligible Costs may include the cost of professional accountants certifying the accuracy of any costs claimed.

2.3 Consultants

The direct costs of studies and/or services carried out by a private contractor or consultant are eligible.

Where a contractor or consultant other than those specified in the Agreement is to be used, prior consultation with the Project officer is advised to ensure eligibility.

The Minister shall not contribute to the cost of the sendees of any consultant that is not, in the opinion of the Minister, at arm's length from the Recipient.

2.4 Calculation of Direct Labour

The Recipient may claim only that time worked directly on the Project and excludes indirect time, non-project related time, holidays, vacation, paid sickness, etc. Paid overtime, where considered reasonable in the opinion of the Department, may be claimed. Time off in lieu of payment is not eligible. Time claimed will normally be expressed in hours.

The payroll rate is the actual gross pay rate for each employee (normal periodic remuneration before deductions). The payroll rate excludes all premiums (e.g., overtime), shift differentials and any reimbursement or benefit conferred in lieu of salaries or wages except as noted in the last paragraph.

Fringe benefits (CPP, EI, holidays, and vacations, etc.) of up to an allowance not exceeding 20% of direct labour may be claimed (supporting documentation not required).

2.5 Goods & Service Tax (GST)

Eligible Costs include the amount of federal goods and services tax, (GST), net of any refund or eligible credits due from the Canada Revenue Agency.

In order to have the GST approved as an eligible cost on future claims, the Recipient maybe required to provide documentation verifying the organization's status under GST legislation.

3 .0 Ineligible Costs

For greater certainty, any costs not specifically described as Eligible Costs in accordance with section 2.0, shall be ineligible for inclusion in the Eligible Costs. By way of example only, ineligible costs include the following:

- (a) costs of capital acquisitions; for the purpose of this Agreement, capital acquisitions include land, building and related construction;
- (b) costs of intangible assets such as goodwill, whether capitalized or expensed;
- (c) depreciation or amortization expenses;
- (d) interest on invested capital, bonds, debentures, or mortgages;
- (e) bond discount;
- (f) losses on investments, baddebts;
- (g) fines or penalties;
- (h) costs related to litigation;
- (i) payments to any member or officer of the Recipient's Board of Directors;
- (j) opportunity costs;
- (k) entertainment costs; and
- (l) fees and expenses of consultants who are not, in the opinion of the Minister, at arms length to the Recipient.