

3rd DRAFT



PETER BALLANTYNE CREE NATION

**SEVERANCE PACKAGE POLICY (SPP)
OPTIONS**

NOVEMBER 29, 2004

Index

Rationale	Page 3
Objective	Page 4
What is the SPP?	Page 5
How will the SPP work?	Page 5
How much will be provided?	Page 6
Option 1	Page 7/8/9
Option 2	Page 10
Option 3	Page 11
Who funds the SPP?	Page 12
What about former officials?	Page 13
Chief and Council Agreement	Page 14
Non-Disclosure Agreement	Page 15
Removed Officials	Page 16
Recommendation	Page 17

RATIONALE

The purpose and need for a Severance Package Policy (SPP) is to establish a legitimate policy whereby the leadership of the Peter Ballantyne Cree Nation (PBCN) are not left with inadequate financial support after the expiry of their term of office. The leadership of the PBCN started providing wages for their elected officials in the late 1980's. Until that time, the elected officials were provided only an annual allocation of \$25 and \$15 respectively depending on whether they were either the Chief or Councilors. There was little remuneration for travel and other expenses for Band Government. The provision for these expenses lay with the Indian Agent.

Times have changed dramatically in the last two decades. The Chief and Councilors now take home salaries appropriate with their responsibilities. The Chief and Council responsibilities are greater now than at any other time in our history and this is reflected in their recompense and remuneration. However, at the end of their respective terms, every Chief and Councilor is left with neither proper support nor reliable source of additional income as provided for most elected officials at the Federal and Provincial Government levels. It is imperative that the PBCN provide a system of proper support and severance at levels acceptable and parallel with existing models for elected officials of their capacity.

3rd DRAFT

OBJECTIVE

The intent for the SPP is to properly provide the PBCN leadership with a means of adequate ability to provide for themselves and their families after their terms of office has expired. This includes, but is not limited to a proper severance package based on years of service to the membership, and also to establish a continuing fund for them to draw from while they seek employment. The PBCN and its membership have an obligation to provide support to their leaders for the time and energy they put into improving the lives of their people and indeed, helping to improve the First Nation at every level, be it economic, social, educational or other.

The SPP is designed to help those who are not in a position to help themselves after the expiry of their respective terms and in times of stress and duress with respect to their personal lives and familial situations. Therefore, there must be sustainable and cost effective measures to help alleviate the strain with respect to their financial situations without going into bankruptcy and other financial burdens. The PBCN wishes to address that need without depleting existing and future available funds. Some former leaders may not have the training, education or experience to continue employment in other fields after they have served and would necessitate the PBCN to help provide assistance. A SPP would alleviate their situation without adding to the impact in the social department until much later, if at all.

3rd DRAFT

WHAT IS THE SEVERANCE PACKAGE POLICY (SPP)?

A severance agreement is a contract between the employer (PBCN) and the executive (Chief and Council). The employer promises to give the executive certain benefits which may include salary continuation, lump sum payments, continued optical or dental care, and letters of good reference. In exchange, the executive gives the employer a release of any legal claims the executive may make including disputed wages or bonuses.

The SPP is a policy designed to help and assist former elected officials of the Peter Ballantyne Cree Nation. After the former elected officials have contributed to the health and well being of their First Nation, there is currently no existing policy to financially assist them afterward. This SPP is not unlike other elected official severances available at the Federal and Provincial levels. The main difference is that this SPP is approved for and maintained by the PBCN for the PBCN leadership.

HOW WILL THE POLICY WORK?

Step 1. The elected official will fill out a SPP Form (similar to First Nations Insurance Pension Plan form). An elected official will immediately pay into the Severance Package Policy a minimum of 7.5% of their salary that will be matched by the Peter Ballantyne Cree Nation. The newly elected official will be obligated to pay into this policy for the duration of their term. The official would have the option of contributing up to a maximum of 10% of their salary.

Step 2. This SPP form would be forwarded to the Band Administrator who would in turn deduct from the elected officials the proper amounts from their salaries. These funds would be placed into a secured interest bearing account accessed only by the Band Administrator. This deduction would be immediately matched by the PBCN.

Step 3. The funds would be accumulating interest over the course of the term of office for each elected official.

Step 4. On or about the second week after each electoral period, each elected official that failed to get re-elected would start drawing their contribution from the SPP account in an amount based on their contributions until such time as their contribution and the PBCN matching contribution were depleted for each individual.

3rd DRAFT

Step 5. Upon the depletion of these contributions, the PBCN would no longer have any obligation to said individuals other than what normally exists between the PBCN and its general membership.

HOW MUCH WILL BE PROVIDED?

For this SPP program to be successful in helping those it is designed to, certain parameters must be addressed, endorsed and accepted by the PBCN leadership and its legal advisors in order for the program to be beneficial to the contributors. Firstly, the contributors must be consistent in their deductions and matched consistently by the PBCN. Secondly, only those not successful in their re-election bids can draw upon these funds. Those still holding office cannot draw from the SPP account unless they are no longer holding elected office. The amount due to the former official would be based on a matched dollar for dollar plan and would depend on what each was willing to have deducted each pay period.

3rd DRAFT

OPTION 1

The amounts that can be provided are explained in detail below. This example outlines a first 2 year term scenario for a Council position with a salary of \$39,000.

Weekly Salary Of Official	Elected Official Weekly 10% Contribution	PBCN weekly 10% matching contribution	Personal/PBCN combined contributions
\$750	\$75	\$75	\$150 per week
52 weeks = \$39,000 salary	Annual personal contribution \$3,900	Annual PBCN contribution \$3,900	Annual combined contributions \$7,800
1 Term Salary of \$78,000	1 term personal contribution of \$7,800	1 term PBCN Government contribution of \$7,800	Total combined contributions for 1 term of office Is \$15,600

The total combined contributions would total \$15,600 for each Councilor position. Therefore, this total accumulated amount would be accessed through the Severance Package Policy account via the PBCN Band Administrator. Each unsuccessful candidate would be entitled to start drawing from their allocations in the amount of \$500 per week for the duration of their existing contributions. In this instance, each former PBCN official would be eligible and entitled to draw \$500 per week after the last electoral period for up to 31.2 weeks.

Depending on the amount of interest accumulated over the course of the term, this time period could increase by several days or weeks. These amounts could double, triple or quadruple depending on the amount of public service. An example is a 2 term (4 years) Councilor. He/she would receive \$500 per week for 62 weeks or up to \$1000 for 31 weeks. What must also be taken into consideration is that from time to time, there may be increases or decreases in salaries and PBCN contributions that would reflect the amount and weeks of obligatory payments.

3rd DRAFT

The scenario below outlines the situation for a first 2 year term position for the Chief of the Peter Ballantyne Cree Nation based on a salary of \$90,000.

Chief's weekly salary	Elected official 10% weekly contribution	PBCN weekly 10% contribution	Personal/PBCN combined contributions
\$1730.77	\$173.07	\$173.07	\$346.14
Annual salary \$90,000	Annual personal contribution \$9,000	Annual PBCN contribution \$9,000	Annual combined contributions \$18,000
1 term salary of \$180,000	1 term personal contribution of \$18,000	1 term PBCN Government contribution of \$18,000	Total combined contributions for 1 term of office is \$36,000

The total combined contributions would total approximately \$36,000 for the Chief position. Therefore, this total accumulated amount would be accessed through the Severance Package Policy account via the PBCN Band Administrator. If not re-elected, the unsuccessful candidate would be entitled to start drawing from their allocations in the amount of \$1500.00 per week for the duration of their existing contributions. In this instance, each former PBCN Chief would be eligible and entitled to draw \$1500 per week after the last electoral period for up to 24 weeks. They could receive \$3,000 for up to 12 weeks. Dependent upon the amount of interest that is accumulated over the course of the term or concurrent terms; this time period could increase by several days or weeks.

It must be noted that these incremental costs will increase over time as there will be some elected officials that remain in that capacity for a prolonged period of time. In those instances, the amounts contributed by the individual and matched by the PBCN would dictate the disbursement of funds. An example of this scenario is a second term Chief or Councilor. After having contributed for 4 years, the PBCN would have matched the contribution and thus would be obligated to provide financial assistance equal to double the initial estimate as outlined in the previous columns and rows. *Another aspect that must be taken into consideration is the immediate lesser impact Option 1 would have if it was to be implemented. Depending on the number of retired officials, the strain on the financial resources of the PBCN would be minimal. If the PBCN leadership adopted a lump sum payment as in Option 2 on p. 10 below, it would have an immediate and detrimental affect on the budgets of their respective communities.*

COST ESTIMATE FOR THE PBCN SEVERANCE PACKAGE POLICY (SPP)

OPTION 1

Council Component

Annual Council Salary	14 PBCN Councilors	Annual Council Contributions at 10% of salary	Annual PBCN Contribution of 10%	Total combined contributions
\$39,000	\$546,000	\$54,600	\$54,600	\$109,200
Per term = \$78,000	Per term = \$1,092,000	Per term contribution = \$109,200	Per term contribution = \$109,200	Per term total combined contributions Is \$218,400

Chief Component

Annual Chief Salary	Personal Contribution at 10% of salary	Annual PBCN Contribution of 10%	Total combined contributions
\$90,000 per year	\$9,000 per year	\$9,000 per year	\$18,000 per year
\$180,000 per term	\$18,000 per term	\$18,000 per term	\$36,000 per term

In this option, both the elected official and the PBCN contribute to a Severance Package Policy that will cost approximately \$254,400 to support. This would be payable upon the first pay period after the results of the most recent election are concluded. Previously, some defeated Councilors received a lump sum amount equal to 6 weeks salary after the election period concluded. However, this was a goodwill gesture on behalf of the existing administration and not a part of any official position or through a Band Council Resolution (BCR). This was deemed to detrimentally affect those without jobs to go to in their immediate futures because, although they were no longer in their respective positions, their families still had to cope with existing debts and cost of living without resorting to the social department for assistance. This option also has the cost of the SPP stretched out over a period of almost 8 months, thereby lessening the impact on the finances of the PBCN.

3rd DRAFT

OPTION 2

The PBCN had previously spent \$4,500 per defeated candidate in support. In some cases, little or no support was provided. In the worst case scenario whereby all 14 individuals became regular members again, that cost would be upwards of \$63,000 in a lump sum payment not including an additional \$6,923.10 for the Chief's support allocation. However, these lump costs could be considered a burden because currently, no one pays into any severance policy and the PBCN would have to bear the brunt of this cost.

Council Component		
14 Councilors (no contributions)	Total Support Allocation	Total one time lump sum cost to the PBCN
\$4,500 x 14 persons	\$63,000	\$63,000

Chief Component		
1 Chief (no contribution)	Total Support Allocation	Total one time lump sum cost to the PBCN
\$10,384.62 x 1 person	\$10,384.62	\$10,384.62

The cost for this scenario would be the smallest in total for the PBCN at \$73,384.62. However, it still would not address the fact that former elected officials are left without a means to support themselves over the long term as they seek other means of gainful employment. This scenario still exposes the individual unfairly due in part because of the single payer/single payee system that allocates the payment in one lump sum. If the lump sum is used in its entirety within a short time, the individual has no other options available to him/her when trying to provide for themselves and their families.

Bear in mind that this option still has not taken into consideration the amount of owed holiday pay, over-time pay, left over sick days, and other financial costs that could be outstanding to the former official. In many instances, these costs would be in the tens of thousands for the many individuals. The most conservative estimate would be that the Option 2 final figure would, at the minimum, double the figure of \$73,384.62. The PBCN may not wish to cover this immediate lump sum payment option depending on its fiscal state. The Third Party Manager may also require notice of such an expense under the existing terms of the PBCN/DIAND Financial Management Agreement (FMA).

3rd DRAFT

OPTION 3

The Peter Ballantyne Cree Nation Elected Official would pay into a Severance Package Policy that would be matched by the PBCN and paid out in one lump sum payment. This SPP would cover from the first pay period to the last pay period of the existing term. The amount to be paid out upon retirement from the First Nation Government leader would be based on the amount of salary deducted, up to a maximum of 10% of earnings from each pay period.

Councilor Component

14 Councilors Salary	10% Contribution	10% PBCN Matching Contribution	Total Combined Contributions
\$78,000 per term x 14	\$7,800 x 14	\$7,800 x 14	\$15,600 x 14 persons
\$1, 092,000	\$109,200	\$109,200	\$218,400

Chief Component

1 Chief salary	10% Contribution	10% PBCN matching Contribution	Total combined contributions
\$90,000 per year	\$9,000	\$9,000	\$18,000
\$180,000 per term	\$18,000	\$18,000	\$36,000

This option would automatically provide for and disperse up to \$254,400 to the former elected officials. While this option would appear, at first glance to be similar to Option 1, there are two very fundamental differences. The first is that this option allows for a lump sum payment immediately after the election is completed, barring no contesting of electoral results. Secondly, it could conceivably drain whatever fiscal resources the new Government had at its coffers, to the detriment of the current administration.

WHO FUNDS THE CHIEF AND COUNCIL SPP?

Each community will contribute their elected officials' salaries for each respective member of the Council. All of the PBCN communities will contribute to the salary of the Chief. Each community would provide a salary for their respective Councilor, who would contribute a portion of their salary to the SPP. The PBCN community would then match this contribution up to a maximum of 10% of gross salary of the elected official. The elected official would be obligated to contribute to their SPP. It is anticipated that all communities from the PBCN will help fund this program.

WHERE WILL THIS SPP FUND BE LOCATED?

This SPP fund would have to be located in one of the financial establishments currently in business with the PBCN. It would be preferred that this financial establishment be located on-Reserve land to ensure there is no taxation issue arising of said program. The CIBC would suffice.

WHAT ABOUT FORMER CHIEFS AND COUNCILORS?

It must be seriously considered that these options are to be implemented after the next election and not before. However, the existing elected officials of this administration and all former PBCN Administrations must be dealt with accordingly prior to adopting any Severance Package Policy option outlined above. This could be in the form of a payment from existing administration dollars. Since the PBCN first started paying it's elected officials only since 1989, this administration need not go further than that time period to properly compensate all former elected officials.

This is also dependent on whether former Chiefs and Councilors were properly compensated before. It is understood that most, if not all former candidates may have been compensated after their electoral defeat, with some exceptions. Some current leaders of the PBCN have not benefited from previous administrations after opting out of politics or after being defeated.

3^{1d} DRAFT

Some existing leaders also should be properly compensated for their past years of service prior to adopting and implementing any new SPP. Therefore, prior to initiating any new plan for the PBCN Leadership, any and all existing situations must be properly dealt with. The following is recommended.

1. Provide all former Chief and Councilors with a payment of 1 month wages per year of service. This would apply to all former officials only from 1989 to the last electoral period in April of 2003. This is because it is believed that prior to 1989, there were no set wages and compensation for any and all elected officials, save for the Chiefs' cost of social, economic and other matters.
2. Provide all current concurrently re-elected leaders of the PBCN with a payment equal to 1 month wages for each year of service for their respective position. This applies to current officials that have been in office for more than 1 term but no more than 7 terms as per 1989. This payment should occur prior to the end of this current term and before adopting any new SPP. It would be best to pay all of these costs prior to the next major holiday and several months prior to the end of the current term of office.
3. Ensure that all individuals sign a declaration, the Employee Non-Disclosure Agreement (see P.16), to be drafted by PBCN Legal Counsel of final payment to deter legal action for future administrations. In the case of deceased former leaders, the next of kin should receive an equal payment for their loved one having served their First Nation Government.
4. After the disbursement of said funds, adopt and implement Option 1, 2, or 3 with payment plan schedule Option A or B on page 15, for implementation in April of 2005.
5. If desired, either option could be implemented for use during this administration. However, that would require each elected official to catch up to their payment options which would burden current officials substantially.

3rd DRAFT

Whichever options is eventually agreed to and approved by the PBCN Chief and Council, there would have to be set limits on the amount of the contributions and more importantly, there must be agreement on the extended severance plan after it takes effect. An example of this is, after the defeat of an incumbent, they would have previously agreed to whether they would receive all funds over an equal amount of time or whether they would receive half immediately and the rest over the course of time with regard to the remaining amounts owed to them.

Chief and Council Agreement on Payment Plan Options

A: If the Councilors agree to the 10% option on deduction and matching contribution during a two year term, they would be entitled to \$15,600 after their retirement from the political scene. They could ask for and receive \$7,800 immediately after the election, barring any appeal. The remaining \$7,800 would be provided by the administration over the course of 15.5 weeks. The Chief could receive \$18,000 immediately after the election, barring any appeal. The remaining \$18,000 would be provided by the administration over the course of 12 weeks.

B: The Chief could agree to accept payments totaling \$36,000 over the course of 24 weeks. The Council could agree to accept the payments totaling \$15,600 over the course of 31 weeks.

To simplify any of the options, one or the other options above should be adopted by the Chief and Council by BCR prior to implementing the SPP option 1,2 or 3.

Employee Non-Disclosure Agreement

This document is important to protect the PBCN and its people from potential harm after the two parties' ties are severed for any reason. This should be drafted by the band's legal representatives and would include the following:

1. Confidentiality between the two parties. Neither would be able to disclose any information about the other.
2. Use of PBCN Information. Former officials could not utilize or dispense information about their knowledge of the PBCN, its subsidiaries, entities, customer base, clients, and other knowledge that would be considered profiteering from any and all information gleaned from their previous employment with the PBCN.
3. Enforcement. All parties agree that enforcing of such agreement is paramount to mutual satisfaction.
4. Ownership. Employee agrees that all developments are the sole and complete property of the PBCN. Note: It is believed that previous employees have utilized their information, materials and knowledge of the PBCN for further personal gain.
5. Governing Law. All parties agree that Saskatchewan Law would be the basis for any dispute arising from such an agreement and that all labour and human rights laws follow said law.
6. Indemnification. Employee agrees to pay compensation for any violation of this contract. Employee must also agree not to disclose confidential any information on such an agreement.
7. Binding Agreement. As understood by all parties. Employee may want to have their legal counsel view the document prior to signing.
8. Must have dual witnesses. Both the employer and the employee must have witnesses to signing of document so as to project honesty, integrity and validity of such a document.

What About Officials Removed From Office As Per The Election Act of 1994

If an official is dismissed from their duties as an elected representative of the membership of the Peter Ballantyne Cree Nation, for any breach of duty with respect to their sworn declaration of the Oath of Office, that person should not be entitled to any and all severance. However, it is the cultural significance of the Cree Nation Membership of the PBCN that people are not often summarily dismissed from their communities from which they came, regardless of their conduct.

Therefore, it should be up to the duly elected officials of the PBCN, in conjunction with the Elders of the PBCN that should decide the measure of the severance, if any, that is to be provided to any removed official. The sole exception may be any official that comes to harm, or causes to be harmed, those very people they were sworn to protect. Legal counsel should be present at this meeting to mediate the matter which forced the removal of such an individual or individuals.

Vice Chief Position

The Vice-Chief deductions and subsequent allocation would be covered by the community administration from which the Vice-Chief is chosen. The amounts would be adjusted to include the extra pay in line with the current administrations' scale. It is generally accepted that this position has some additional responsibility and thus has an adjusted pay scale. This would reflect on the final amount provided at the end of their service to the membership. However, it would still require an agreed upon weekly allocation similar to the Council.

Recommendation

Option 3: This would immediately drain surplus dollars from future administrations and thus would be cause for some consternation. It would also hamper the ability of the former elected official to maintain their quality of life and the quality of life of their families over the longer term. If each Councilor took the lump sum payment, the optics would not bear well with the current administration because the newly created Administration would be making up to 14 cheques each potentially worth \$15,600 per person.

Option 2: This would be the most simple and least expensive of choices. However, they burden the entire cost of the severance to the PBCN. The possibility of paying out even larger sums with regard to holiday pay, over-time pay, sock days and others could drive up the one time payment to the detriment of the PBCN.

Option 1: This option does not immediately drain fiscal resources, but rather makes payments over a period of from a couple of months up about 8 months depending on the agreed upon plan. It starts after the first pay period of the next PBCN Administration, barring there are uncontested electoral results. This option would not drain the administration of needed dollars and also would ensure that all former elected officials had something to rely upon while pursuing other interests.

Upon decision making by the Chief and Council, the final draft could be completed in a matter of days. If the Chief and Council were so inclined, the recommendation for Option 1 would be best overall in terms of fairness and cost to both the individual and the PBCN. Additional discussion would be necessary at the leadership table and the implementation of the Severance Package Policy would need to be adopted at the earliest opportunity.