



Questions and Answers on the OFNTSC's Governance Reforms

Updated: January 2021

1. *Why was a new Board elected in January 2021, I thought this was just done (i.e. January 2020)?*

In January 2020, a Caretaker Board was elected that reduced the number of directors from 24 to 12 members. This Caretaker Board was mandated by Voting Members to lead the process of electing a new Board using a skills-based approach. The election of Directors in January 2021 was the final step in the ongoing governance reforms.

2. *What governance reforms were implemented?*

The main governance reforms include:

- i. Reduction in Board size from 24 to 12 members (completed in January 2020)
- ii. Shift to a skills-based and diversity-based Board, moving away from a Board formed of Voting Members who are representing their employers (January 2021)
- iii. Creation of a Leadership Advisory Committee composed of First Nations leaders from all regions and Nation groups in Ontario (planned for June-July 2021)
- iv. Creation of a Technical Advisory Committee composed of the Technical Experts that work in First Nations infrastructure (February 2021)
- v. Introduction of Board Committees to ensure oversight of the corporation (March 2021)

3. *How will the proposed changes to the Board and introduction of new Advisory Committees ensure that my community's interests and needs are better represented?*

The Board of Directors will continue to be accountable to the Voting Members and these changes will ensure stronger accountability to First Nations in Ontario. The Voting Members of the corporation will continue to be selected by First Nations and Tribal Councils in Ontario. The new Board will be more diverse and have a broader range of skill-sets, which will improve organizational oversight on behalf of Voting Members and lead to new opportunities for OFNTSC. All Board members will have the time and skills to ensure that OFNTSC is moving forward on its mandate and securing the support and funding necessary to enhance services to First Nations. The new Leadership Advisory Committee and Technical Advisory Committee will ensure that the direct link to Voting Members and First Nations is much stronger than in the past. These improved linkages will ensure that the decisions of OFNTSC always consider the needs and input of First Nations in Ontario.

4. *How did the nomination process ensure that the best qualified candidates were selected and appointed to the Board?*

As mandated by Voting Members in January 2020, the Caretaker Board implemented a skills-based nomination process to support Voting Members in electing the new Board. The Board established skills requirements and diversity criteria that will ensure that OFNTSC is guided by a Board of experienced and qualified directors, with deep experience working in and for First



Nations. The Board engaged a professional Board search firm to ensure that potential candidates were aware of the opportunity, and extensive engagement was done with Voting Members and through Social Media. The initial screening of all candidates was performed by the professional search firm, including screening of the applications of existing Board members. All existing Board members who applied were screened in. Ultimately, all existing Board members who applied accepted nominations for election were voted in by Voting Members.

5. *Were some of the existing Directors included in the list of nominees?*

The Caretaker Board determined that 4 to 5 members of the existing Board should be included on the slate of proposed Directors for Voting Members to consider at the Annual General Meeting in January 2021. The OFNTSC's legal counsel (OKT Law), governance advisors (Orbis Risk Consulting) and the corporation's management team have all strongly encouraged the Caretaker Board to ensure continuity on the Board. Continuity on the Board is important for ensuring the partnerships and relationships with First Nations, First Nation organizations and funders are maintained. It is also essential to ensure the important work of the Corporation continues without interruption.

6. *How and when will OFNTSC and the Board report back to First Nations in Ontario?*

The Voting Members created a Technical Advisory Committee to ensure that OFNTSC reports to Voting Members at least 4 times per year on important technical matters. OFNTSC will also enhance its formal annual accountability reporting provided to the Chiefs in Assembly and is seeking to establish a communications protocol with Chiefs of Ontario to ensure that its communications to leadership are fulsome and timely. Additionally, OFNTSC plans to provide an open invitation to First Nations members to have an OFNTSC Board member and/or management visit them to report on the activities of the corporation and to answer questions.

7. *What would be the role of the Leadership Advisory Committee?*

The Leadership Advisory Committee would provide insights and advice on how best to engage with First Nations, funders and First Nations political organizations. The committee would not have operational oversight roles or direct decision making authority. The political advisory committee would provide advice on important decisions and investments, and may be asked to help make important connections with First Nations leaders and funders to advance the technical services interests and needs of First Nations. Additionally, leadership advisors will be asked to participate as key stakeholders in the strategic planning process.

8. *What would be the role of the Technical Advisory Committee?*

The Technical Advisory Committee is created by Voting Members and appointed by Voting Members. It will be a forum for sharing insights and advice on emerging technologies, potential technical challenges, technical services, and opportunities for First Nations infrastructure. The technical advisors will also be asked to provide their analysis on the technical aspects of new OFNTSC initiatives and services to ensure maximum success. The technical advisors will also be



asked to participate in the strategic planning process and provide support in building productive partnerships with industry, regulators and technical leaders in government.

9. *Why does OFNTSC maintain financial reserves?*

Our number one priority is investing all of the funding we receive in services for First Nations in Ontario. Our financial reserves fluctuate during the year based on when ISC flows funding to OFNTSC. To ensure we are financially solvent, we need to watch our cash-flows very closely throughout the year. In June 2020, our financial reserves were almost fully depleted, because ISC had not flowed most of the funding for 2020-21. At the end of the fiscal year, when our financial statements are prepared, is the point in the year where our reserves are the highest. Between 2018 and 2019, ISC reduced our funding to force OFNTSC to reduce financial reserves to approximately \$2.5M. The OFNTSC Board of Directors, on advice from its accountants and risk management advisors, is aiming to maintain financial reserves equal to 4 months of operating expenditures. Voting Members have directed the Board of Directors to develop a financial reserves policy that will be presented to Voting Members at the 2022 AGM.

10. *Why are there two Settlers from outside of Ontario on your board?*

The nomination committee of the Board of Directors would have liked to achieve a Board that was 100% First Nation, and we reached 10 of 12 Board members from First Nations in Ontario and Tribal Councils. In the past, we have always had Settlers on our Board because these are the individuals that work in technical services for our First Nations, and these individuals were appointed by Voting Members. The two out-of-province individuals elected by our First Nations Voting Members for this Board are two of the most accomplished and committed technical experts in Canada who work extensively with and for First Nations. We are confident that the Board has the right knowledge, experience and relationships to ensure that technical services provided to First Nations in Ontario are improved and enhanced over time.

11. *How are Conflicts of Interest to be managed?*

The past Board introduced a number of Conflict of Interest requirements to ensure that the best interests of First Nations in Ontario are always the only interest of OFNTSC. As with any Board, the Directors on our Board have full-time jobs and other Board appointments. Each new Board member has agreed to swear an Oath of Allegiance and to adhere to strict Conflict of Interest provisions. These provisions require that Directors fully remove themselves from any discussions and Board votes that relate to transactions, contracts and potential transactions or contracts that they or their families might benefit from. Our corporate legal counsel has provided the board with a tool to identify and manage Conflict of Interest in a proactive manner. It is also important to note that OFNTSC does not procure consultants or project managers for First Nations infrastructure projects, this is done by First Nations in accordance with their contracting policies.



12. Why did OFNTSC Voting Members move to a skills-based Board (i.e. directors with a range of skills, competencies and experience)?

In past years, the OFNTSC Board included all 24 Voting Members and served two purposes. Firstly it was a forum for technical experts to share information, a function not related to the Board responsibilities. This function will now be served through the Technical Advisory Committee. The second role of the past Board was to provide oversight and direction for OFNTSC, and this will continue to be performed by the Board. Past attendance at Board meetings was sporadic at best, the board lacked skills in some important areas (e.g. accounting, legal, information technology, research, etc.) and the governance of the corporation suffered at times.

The majority of OFNTSC's Voting Members want the Board of Directors to be stronger and more effective. This was also strongly encouraged by Deloitte consulting in its 2016 report on OFNTSC's governance and controls. The Board's existing legal and governance advisors also strongly encouraged the move to a modern skills-based Board. A more diverse Board of Directors with a broader range of skills, experiences and competencies will ensure that the OFNTSC continues to innovate and enhance its services. Additionally, the leadership and technical advisors will help to ensure that the interests and needs of First Nations are heard and addressed through OFNTSC's strategic direction, priorities and services. Finally, this reform will enable OFNTSC to negotiate predictable long-term funding with ISC.

13. Why did Deloitte and the OFNTSC's governance advisors recommend a move away from the previous "representative board" model?

A representative Board is composed of board members that have a formal connection to the voting members (i.e. employees of Tribal Councils and First Nation governments). While this might seem attractive on the surface (i.e. closer control and more direct accountability to the appointing voting members), it can severely hamper the effectiveness of boards and their organizations, including:

- the organization and its voting members are unable to choose what competencies, skills and assets (e.g. connections and influence) it needs from directors serving on its board;
- there is lower director engagement and involvement, where the directors serve more out of duty than of personal interest;
- there can be less sense of obligation on the part of directors to consult with all stakeholders and voting members, when they are only appointed by one;
- directors tend to be focused on the interests of their own voting member and voting members without an active director tend to be underrepresented at the board table;
- directors tend to place greater emphasis on the interests of the voting member which can lead to competition amongst directors about the organization's priorities;
- Boards tend to be very large, which diminishes their effectiveness by slowing down decisions making – the ideal board size has been shown to be 7 to 11 directors;



- decision-making is slow and constrained because directors are sometimes required by their voting member to consult with their constituencies on certain decisions – this impedes the organization’s ability to be innovate and be responsive to clients.

14. What were the skills and diversity criteria that guided selection of the new Board?

The skills and competencies being proposed by OFNTSC (i.e. on the advice of its governance advisors and legal counsel) are set out below. The objective is to ensure that, as a full board, these competencies are covered off by the full board (i.e. each director would bring different competencies to the board).

- Expertise in First Nation infrastructure maintenance/construction/asset management
- Experience working in First Nations in Ontario
- Expertise in water and wastewater infrastructure/operations
- Expertise in environmental science/management
- Expertise working with First Nations political leaders
- Expertise working with First Nations funders
- Executive level experience in research and developing technology
- Training and experience as a corporate director
- Expertise in financial oversight
- Expertise in information management and technology
- Knowledge of the legal and fiduciary duties of directors of a not-for-profit corporation

15. What Board composition/diversity criteria are being suggested?

The board composition criteria being proposed by OFNTSC (i.e. on the advice of its governance advisors and legal counsel) are set out below. All of these criteria are open for discussion and will be adjusted to incorporate feedback from First Nations.

- Minimum of 70% of directors are citizens of a First Nation in Ontario
- Minimum of 60% of directors have experience working for and in a First Nation in Ontario
- Minimum of 30% of directors are female
- A range of ages is achieved in the board composition
- At least one director from each of Northern Ontario, Southern/Eastern Ontario
- At least one director from an Unaffiliated First Nation
- At least one designated accountant (e.g. CPA, preferably a member of AFOA Canada)

The slate of nominees proposed by the Ad Hoc Governance committee in January 2021 achieved all of these targets

16. How will the new Board affect the services that OFNTSC provides to my community(ies)?

There will be no immediate changes to the type of services provided to First Nation, but it is expected that these governance changes will open up new opportunities for services and programs. The enhanced governance will improve relationships with funders and partners and improve OFNTSC’s ability to enhance and expand upon these services. The diversity of the Board



will help to ensure that OFNTSC is innovative and responsive in enhancing and expanding its services.

17. *How will the OFNTSC Board ensure that the input of First Nations is sought out and included in decision-making?*

OFNTSC proposes that the board be mandated to ensure that OFNTSC consults with First Nations and key stakeholders through board-directed processes to obtain First Nation input, surveys, needs assessments and strategic planning. The Technical Advisory Committee will be included in strategic planning and important decisions affecting the services delivered to Tribal Councils and First Nations. Additionally, communications protocols with the Chiefs in Assembly could ensure that OFNTSC reports in a timely and fulsome matter to First Nations in Ontario. Finally, OFNTSC proposes that the new board be mandated to increase its presence and visibility in the organization's communications with First Nations, including periodic board member and executive director visits to First Nations.

18. *Why does OFNTSC want long-term and predictable funding from ISC and how does this relate to the proposed governance reforms?*

OFNTSC's fiscal relationship with ISC was not a smooth relationship between 2016 and 2020. The current ISC funding agreement applies conditions that impede the self-determination of our First Nations voting members and funding levels are generally insufficient to meet needs. In the past, ISC's desire to direct how funding is spent has impeded OFNTSC's ability to set priorities and deliver on the needs of First Nations in Ontario. Additionally, OFNTSC is challenged in attracting employees due to the looming uncertainty of its funding levels. Through extensive collaboration and communication, ISC has committed to provide long-term flexible funding if ISC implements the governance and management reforms included in an organizational review report completed by Deloitte.