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Corporate Services
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**Audit of Self-Government
Negotiations
Funding Process and Practices**

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Executive Summary

Purpose

The purpose of this audit was to assess the management and operational practices for self-government funding, determine whether funds have been used for intended purposes, and provide information for the renewal of the funding authority.

Background

In 1995, the Government of Canada recognized the Inherent Right (IR) of self-government and approved a new policy framework for the implementation of the IR. In 1996, Treasury Board (TB) approved a new class of contributions for funding negotiations of self-government. The TB authority set out specific terms to mitigate risk of funding unproductive negotiations and to strengthen accountability for negotiations funding (e.g. maximum amounts, projected timeframes, entry criteria, a Federal Steering Committee and an emphasis on achieving negotiated products and milestones).

The IR policy and TB negotiations funding authority, together, defined a new approach. Not long after the initiation of the new approach in 1996, however, other developments had a major impact on the approach to self-government negotiations. *Gathering Strength*, an action plan regarding the recommendations of the 1996 Royal Commission on Aboriginal Peoples, placed emphasis on strengthening Aboriginal governance, capacity building, issues of larger groupings for effective self-government and developing new fiscal relationships.

The introduction of new management and operational practices to meet the 1996 TB authority requirements created a major challenge for the department. These demands were further compounded by the need to devise methods and establish fundings related to *Gathering Strength* initiatives such as Nation Re-Building, Communications and Fiscal Tables. A broader view of the self-government process emerged where negotiations was only part of the process.

In 1996-1997, 37 sets of self-government negotiations came under the 1996 TB authority. Given the timeframes for reaching a final agreement (3 to 4 years in the case of First Nations and Tribal Councils), many more final agreements would have been expected by 2001 than the five (5) that were reached. The slower than expected progress is caused by a number of factors. A key variable has been the rapidly expanding self-government development work on capacity development, good governance and communications. While these solidify the basis for self-government they have, at the same time, had a impact on the progress of the negotiation process. Another factor has been that, while entry criteria were established to ensure groups were negotiation ready, the majority of groups involved in the process (81%) were not subject to the entry criteria. They came under the 1996 TB authority because they were already involved in negotiations.

Assurance

We examined the management and operational practices we considered essential to providing senior management with reasonable assurance that self-government funding is managed according to authorities and in a manner that supports the evolving nature of self-government and the risks therein. In our opinion, with respect to criteria established (**Appendix B**), there is reasonable assurance, with the exceptions noted below, that there are no significant deficiencies in the management and operational practices examined.

1. Funding of self-government negotiations cannot be implemented in an optimal fashion without a unified and all-inclusive strategy that supports the objectives of both the 1996 TB Self-government Negotiations Funding Authority and the *Gathering Strength* nation and capacity building initiatives. The unified and all-inclusive strategy would need to address the current segregation of funding authorities and the fact that an integrated view of negotiation readiness and related capacity/nation-building/communications issues may require greater flexibility of funding maximums and timeframes according to the unique characteristics of different sets of negotiations.
2. The lack of a collective view of how to measure success of negotiations impedes performance reporting and overall accountability for results. For the most part, performance indicators and reporting are very general in nature and do not provide informative progress information to stakeholders (i.e. Parliament and Management). The evaluation of negotiations funding and the initiative to establish a Results-Based Management and Accountability Framework, which were both underway at the time of the audit, provide an opportunity to develop success measures that integrate the broader view of self-government in a manner that reflects direct practical outcomes and longer term outcomes.
3. A method to more systematically and formally establish and monitor “uncertainty” in negotiations needs to be established to address the growing realization that several inter-dependant variables influence the progress and successful completion of negotiations. The current informal and intuitive analysis of uncertainty, based on past experiences at the tables and networking, may lead to inconsistent understandings and communications about which negotiation paths have high, medium or low levels of uncertainty. More formal attention to uncertainty puts funding decisions and results into context.
4. The effective and comprehensive qualitative and financial assessment of whether money was spent for the intended purposes cannot be assured without regional roles, responsibilities and relationships between Inter-Governmental Affairs and Funding Services units being consistently and clearly defined or understood. The weak linkages and limited knowledge transfer between these essential units also detracts from effective communications, internally and externally, and with client communities.

5. Key operational practices require strengthening. These are:
- A large percentage of funding is often allocated for “negotiation capacity” and not linked to achievement of negotiated products and milestones, as required by TB Management Terms and Conditions. The actual proportion of cash flowed for deliverables is determined on a case-by-case basis to meet the particular needs of the negotiating parties and manage the risk to achieving objectives or reasonable progress. While, priority can be given to the provision of adequate resources and flexibility to support the momentum and requirements of the core negotiations "process", an increasing portion of the funds should be dispersed in relation to specifically defined products and milestones to facilitate the monitoring and analysis of performance and results.
 - There is variability in the nature and degree of monitoring, control and accountability practices between negotiations and regions. In some cases audits did not provide a clear delineation of self-government revenue and expenditures. In other cases, schedules were not provided/obtained to verify any unexpected balance and recovery requirements. There is a need to establish standards and guidelines which ensure performance monitoring and reporting practices meet public accountability and management assurance requirements.

Recommendations

1. The Director General, Self-Government Branch, should:
 - a) ensure the renewal of the negotiation support funding program reflects a unified and all-inclusive strategy which supports the broad objectives of both the 1996 Treasury Board Right of Self-government Policy and the *Gathering Strength* - nation and capacity building initiatives;
 - b) ensure Treasury Board Management Terms and Conditions are amended to permit flexibility of funding levels and time frames according to the unique characteristics of the different types of negotiation processes including readiness and related capacity /nation building / communication requirements;
 - c) make efforts to obtain collective agreement among key stakeholders on the critical success factors in self-government negotiations; and
 - d) place emphasis on comprehensive performance reporting which provides meaningful results and spending information to the public and parliamentarians.

2. The Director General, Self-Government Branch, should ensure overall planning and funding practices reflect:
 - a) agreed upon and commonly understood results-oriented targets and measurable indicators;
 - b) an analysis of meaningful and relevant alternatives based on cost-effectiveness and efficiency factors; and,
 - c) thorough internal and external environmental scans to clearly identify needs, opportunities and risks.
3. The Director General, Self-Government Branch, should ensure priority is placed on developing the capability to:
 - a) gather relevant and reliable results information and exchange best practices/lessons learned for planning and decision-making;
 - b) target high risk areas and all risk factors that could facilitate or prevent the achievement of performance objectives; and
 - c) systematically assess and communicate risks and opportunities between stakeholders and ensure a common understanding and management by all.
4. The Director General, Self-Government Branch, should:
 - a) establish a priority on developing the Results-Based Management and Accountability Framework (RMAF) and the Risk-Based Audit Framework (RBAF) as a joint project; and
 - b) consider including a systematic risk assessment as part of the joint RMAF/RBAF project so that an explicit understanding of risk is available for decisions by the department and Treasury Board.
5. The Director General, Self-Government Branch, should establish the key priority and a work plan with defined target dates for initiatives underway to improve communication practices.
6. The Director General, Self-Government Branch, in consultation with the Regional Directors General should examine regional roles and responsibilities to ensure an integrated approach to managing and monitoring negotiations and related expenditures are clearly defined;
7. The Director General, Self-Government Branch, in consultation with the Regional Directors General should:
 - a) clarify what are the products and milestones of “core activities” so that all funds can be said to be linked to products and milestones;

- b) ensure a standard process for the systematic analysis and explicit reporting of the level of delivery risk for each set of table negotiations is established and updated annually; and
- c) ensure standards and guidelines are established for monitoring and reporting negotiations progress as well as for providing assurance on the use of funds for intended purposes.

Section 1 - Introduction

Background

In 1995 the Government of Canada recognized the Inherent Right (IR) of self-government as an existing Aboriginal Right under Section 35 of the *Constitution Act, 1982*. Also in 1995, Cabinet approved a policy framework for the implementation of the IR and the negotiation of self-government. The IR policy replaced the previous Community-Based Self-Government (CBSG)¹ policy approach under which communities could negotiate self-government agreements to replace outdated provisions of the *Indian Act* to secure jurisdiction and authority over a range of matters. Under the CBSG policy, agreements were to be implemented through federal legislation. Since these agreements were not premised on the inherent right, jurisdiction was viewed as delegated.

In January 1996, Treasury Board (TB) approved a new class of contributions to facilitate Inuit and Innu communities, Indian Band and band groupings participation in the negotiation of the inherent right of self-government.

The new authority included funds to support continued negotiations with 10 groups who had made significant progress under CBSG negotiations. It also set out specific terms and requirements to mitigate the risk of funding unproductive negotiations and to strengthen accountability for negotiations funding. For example, the new authority:

- provided for participation of provincial governments and cost-sharing;
- set out entry criteria to assure that participants were negotiation ready;
- required a Federal Steering Committee (FSC) to be established that would coordinate all Federal Departments involved and be responsible for the overall management of the inherent right negotiations process;
- required a new organization to be established at DIAND Headquarters called the Self-Government Negotiation Branch (SGNB) that would be responsible for new negotiations and CBSG negotiations carried forward;
- set a preference to negotiate at the province, treaty or region-wide level to gain economies of scale. It also recognized the likely need for sectoral negotiations;

¹ Please refer to **Appendix A** for a listing of all acronyms used in this report.

- made clear that funding would be available only for the mandating, negotiation and ratification stages and that funds would not be provided for the development of self-government proposals; and
- stated that contribution conditions would include: negotiation of cost-sharing agreements with provinces, funding driven by achievement of negotiated products and milestones, maximum allowable funding levels and time frames, and the stringent application of funding criteria.

The IR policy and TB negotiations funding authority, together, defined a new approach. The new approach represented major changes in the basis for negotiations and in the process and terms for negotiation funding. However, not long after the initiation of the new approach in 1996, other developments had a major impact on the approach to self-government negotiations. First in 1996, The Royal Commission on Aboriginal Peoples (RCAP) identified continuing problems among Canada's Aboriginal population and recommended far-reaching actions related to recognition of self-government, rebuilding of nations, governance capacity building and new financial arrangements. Further, in 1998, the Government of Canada announced *Gathering Strength*, an action plan regarding RCAP recommendations. *Gathering Strength*, placed emphasis on strengthening Aboriginal governance, capacity building, issues of larger groupings for effective self-government and developing new fiscal relationships.

As a result of these initiatives, the policy approach to implementing self-government was expanded from an initial focus on jurisdiction and authority of First Nations and Inuit groups to facilitating their development of the skills, structures and attitudes for good governance as a basis for self-government and to negotiate the self-government agreements. The focus of the agreements would be to establish the basis for ongoing government-to-government relationships which address jurisdiction, governance structures, program delivery, fiscal arrangements and implementation.

The introduction of new management and operational practices to meet the 1996 TB authority requirements created major challenges for the SGNB. These demands were further compounded by the need to devise methods and establish funding for self-government initiatives related to *Gathering Strength*. On the one hand, the 1996 TB authority established "Sectoral" and "Comprehensive" as the two categories of negotiations processes to be funded. Whereas, *Gathering Strength* and other "good governance" research introduced several new elements [i.e., Province-Wide Initiatives, Nation Re-Building, Developmental Processes and Fiscal Tables], as part of the broader view of the self-government processes, where negotiations is only part of the process. To effectively fulfill all of the self-government negotiation requirements, the many self-government initiatives (which are now being managed collectively) have to be supported through a number of separate funding authorities. In this regard, our audit can only provide a partial window on self-government - an analysis of negotiations funding activities and not self-government per se.

Resources

The resources allocated for this program were \$14.7 million per year for the period 1996-1997 to 2000-2001, after an initial funding for 1995-1996 of \$1.7 million.

The maximum amount payable to any one recipient was specified, with yearly funding ceilings to vary depending on the type of agreement and the aggregation level. Projected time frames and maximum amounts were also specified, as set out in Table 1 - below:

**Table 1 -
Maximum Amounts Payable and Time Frames**

Aggregation	Sectoral	Comprehensive
First Nations	N/A	\$100 - 200,000/year (2-3 yrs = \$600,000 maximum)
Tribal Council	\$300 - 400,000/year (2 yrs = \$800,000 maximum)	\$400 - 700,000/year (3-4 yrs = \$2,800,000 maximum)
Treaty/Regional/ Provincial	\$500 - 700,000/year (2 - 3 yrs = \$2,100,000 maximum)	\$700 - 1,500,000/year (6 - 9 yrs = \$13,500,000 maximum)

(These figures are based on an average band size of 500 persons. In limited cases, where First Nations membership totals are close to that of a tribal council, the tribal council figures may be used).

Table 2 on the following page illustrates that the majority of groups became involved in the sectoral and comprehensive process in the first full year (1996-1997) based on the fact that they were already involved in negotiations. Only 7 groups (approximately 19%) entered in the sectoral or comprehensive process since 1996, through the application of the entry criteria.

**Table 2 -
Self-Government Negotiations Funding
Contribution Agreement Numbers by Region/Year**

Region	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001
Atlantic	1	1	2	2	2	2
Quebec	0	6	3	4	5	6
Ontario	1	7	8	7	8	9
Manitoba	0	1	1	1	1	1
Saskatchewan	0	2	2	1	2	1
Alberta	0	0	1	1	2	1
British Columbia	0	3	3	2	1	1
Northwest Territories	0	4	4	4	4	4
Yukon	0	13	12	17	17	14
Total	2	37	36	39	42	39

All but two of the contribution agreements are either First Nation or Tribal Council levels. Given the TB funding authority time frames for reaching a final agreement for First Nations and Tribal Councils (2 - 3 years and 3 - 4 years respectively), many final agreements would have been expected by 2001.

Table 3 -, on the following page, illustrates the various agreements reached each year. The slower than expected progress is caused by a number of factors. A key variable has been the rapidly expanding self-government development work on capacity development, good governance and communications. While this work solidifies the basis for self-government it has, at the same time, had an impact on the progress of the negotiations process.

**Table 3 -
Negotiation Process Agreements
Reached 1996-1997 to 2000-2001**

	Sectoral			Comprehensive			Total		
	FWA	AIP	FA	FWA	AIP	FA	FWA	AIP	FA
1996-1997	1	1	1	3			4	1	1
1997-1998				1		2	1		2
1998-1999	2	1		1	2	1	3	3	1
1999-2000	2			1		1	3		1
2000-2001	1			2	3		3	3	
Total	6	2	1	8	5	4	14	7	5
Legend: FWA = Framework Agreements AIP = Agreements in Principle FA = Final Agreement									

Inherent Risk

Inherent risk exists in all negotiation processes in that the parties may not be able to conclude an agreement. Inherent risk of parties not reaching an agreement is accentuated by a number of factors:

- Canada’s recognition of the Inherent Right of self-government places an onus on maintaining the existing or a modified process where problems arise;
- economic, good governance and capacity factors, needed to fundamentally support self-government, are in a developmental stage in many cases; and
- it is difficult to explain and measure the extent of progress when agreements are in an ongoing process.

The impact of this inherent risk includes the loss of public confidence in the responsible spending of public funds on self-government. There can also be a loss of public confidence in other departmental programs.

Objectives

The objectives of this audit were to:

- assess the adequacy of the design and implementation of management and operational practices to assure funding is managed according to authorities and in a manner that supports the evolving nature of self-government and the risks therein;
- provide analysis that will inform the renewal of the authority in accordance with the Transfer Payments Policy (TPP); and
- determine whether funds have been used for the intended purposes.

Scope

The scope of the audit covered the overall Inherent Right Negotiations Funding process from April 1996 to March 2001. We examined planning, decision-making, control and reporting practices at headquarters (HQ) and within a representative sample of funding arrangements in four regions including Quebec, Ontario, N.W.T and Saskatchewan. We selected 11 self-government initiatives which are representative of the various types of negotiation processes (Sectoral and Comprehensive) and key characteristics such as: stage of negotiation (FWA, AIP, FA), materiality, single and multiple communities, best practices, application of TB Entry Criteria and former Community Based Self-Government (CBSG) initiatives. Table 4 on the following page illustrates the self-government initiatives selected.

Methodology

The first phase of the audit focussed on defining objectives, risks and intended outcomes and the practices, processes and controls used to manage the self-government funding support program. Activities included extensive documentation audit and meetings with the SGNB and Regional Intergovernmental Affairs and Funding Group staff. Based on our preliminary analysis, we outlined the key elements of the 1996 Treasury Board authority guidelines, conditions, criteria and processes for self-government negotiation funding support as well as the planning, monitoring, reporting practices and processes which were implemented to comply with these mechanisms. In the context of this profile, we identified criteria for further examination of the management regime for funds allocation and control. The criteria are set out in **Appendix B**.

**Table 4 -
Selected Self-Government Initiatives**

Region/Initiative	Type				Entry Process		Working Toward			Expenditure (Up to March 19, 2001)	# of Communities
	CR	C	S	CBSG	TB Criteria	Other	FWA	AIP	FA		
QUEBEC											
• Kahnawake		✓		✓				✓		\$1,000,000	1
• Conseil Nation Atikamekw	✓							✓		\$ 2,300,000	3
• Makivik Corp.		✓				✓	✓			\$ 275,000	14
• Conseil Tribal Mamuitum	✓							✓		\$ 2,700,000	3
ONTARIO											
• Akwesasne		✓				✓	✓			\$ 1,750,000	1
• Treaty 3		✓			✓			✓		\$ 5,082,000	25
• Union of Ontario Indians (UOI)			✓		✓			✓		\$ 4,300,000	43
• United Anishnaabeg Councils (UAC)		✓		✓		✓			✓	\$ 3,561,000	8
SASKATCHEWAN											
• Meadow Lake		✓		✓		✓			✓	\$ 4,275,000	9
NWT											
• Gwich'in Tribal Council		✓				✓		✓		\$ 2,468,875	4
• Dogrib Treaty 11 Council	✓					✓			✓	\$ 2,620,000	4
TOTAL										\$30,331,875	
CR = Claims Related C = Comprehensive S = Sectoral CBSG = Community-Based Self Government FWA = Framework Agreement AIP = Agreement in Principle FA = Final Agreement											

During the next phase of the audit, we conducted a more detailed examination of funding activities carried out according to the “Regional - Headquarters Protocol With Respect to Funding Support for Self-government Negotiations”. The particular focus of this part of the audit was the collaborative fulfilment of responsibilities for managing, coordinating and controlling the negotiation of agreements and financial arrangements at headquarters and in the four regions. We assessed the extent to which departmental practices:

- provided strategic direction and overall coordination;
- ensured effective program planning and resource allocation;
- established a clearly defined management and accountability framework;
- established an appropriate organizational infrastructure and addressed capability issues;
and
- included operational practices that assured compliance with Treasury Board Management Terms and Conditions, Contribution Agreement Minimum Terms and Conditions and Financial Administration Cash Management policies.

Section 2 - Findings and Recommendations

Strategic Direction and Overall Coordination

The SGPD has implemented many sound departmental and interdepartmental organizational structures, committees, guidelines and processes to facilitate strategic direction and coordination of self-government negotiation funding support. Strategically, self-government negotiations funding is now managed in a manner that integrates closely with capacity development and communications. However, the segregation and terms of funding authorities do not reflect this strategic integration .

The 1996 TB authority set the parameters for the overall coordination and implementation of the self-government funding program. The authority introduced specifically defined roles, responsibilities, structures, processes as well as Management Terms and Conditions and Contribution Minimum Terms and Conditions that must be complied within its management and administration.

According to this authority, the SGPD is responsible for:

- leading interdepartmental policy development and policy support and advice to negotiators;
- the mandating process;
- interdepartmental coordination and liaison;
- managing negotiation funding and monitoring and reporting on negotiation progress; and
- negotiating cost-sharing arrangements.

Since the introduction of the new Treasury Board Class of Contributions, the SGPD has developed a management regime which continues to evolve towards a more accountable and results-oriented process. Standards and procedures have been put in place to facilitate compliance with the Treasury Board Terms and Conditions and Negotiation Process Requirements for Self-Government Arrangements.

Overall direction and oversight for self-government negotiation efforts is facilitated through national and regional strategic plans, Federal Steering and Mandating Committees, Regional - Headquarters Coordinating Committees, Caucuses and the Negotiators Steering Committee. Coordination mechanisms have been put in place, centrally and regionally, to set strategic direction, objectives and priorities for self-government negotiations as well as to manage and monitor the progress of its various activities.

Departmental senior management conduct regular overviews of negotiations to provide general direction, identify emerging problem areas and initiate corrective action as required.

The FSC conducts ongoing review and overall assessment, in consultation with departmental officials and negotiators.

Our audit indicated that, due to the size and complexity of the self-government negotiation portfolio, the accountability and related responsibility for the management of negotiations and overall expenditure of human and fiscal resources is dispersed across the spectrum of negotiations stakeholders and management systems and controls. The implementation of this management regime of shared responsibilities and accountabilities poses an ongoing challenge to planning, decision-making and the management of performance and risk.

This multi-layered and interdependent management structure requires a collective commitment to shared ethics and values to maintain a balance between flexibility and control in face of constantly changing self-government negotiation priorities and needs. Sustained leadership, central-co-ordination and clear direction must ensure:

- fair and rational distribution of resources between recipients based on demonstrated relevance and actual need;
- results-oriented objectives and agreed-upon priorities; and
- monitoring and reporting of meaningful results information to the public and parliamentarians.

The Treasury Board Management Terms and Conditions stipulate the standards, criteria and procedures for negotiations entry - "readiness", continuing eligibility review, basis and timing of payments as well as maximum amounts payable and projected time frames for the various types of agreements and aggregation levels. Our review of these provisions indicated that several of the terms and conditions and their application do not appropriately support or reflect the evolving nature of self-government negotiations and the risks therein.

We found that standardized funding criteria for entry have only been applied to a very small number of the negotiation tables underway due to a variety of pre-determined conditions such as treaties or land claims. As a result, many groups have attempted to continue down the negotiation path without the required state of "readiness" to participate and progress in an efficient and effective manner towards agreement. We observed that, many negotiations continually confronted obstacles to negotiations progress as a result of a lack of "readiness to start substantial negotiations (i.e. preparedness of the FN) and demonstrated community support".

The challenges and obstacles that have been confronted throughout the years have increased awareness of the essential precursors to successful negotiations and that the Treasury Board resource levels and time frames could not accommodate essential needs such as capacity/nation building and communications. Other barriers such as economies of scale priorities, provincial cabinet decision-making time lines, geographical location, isolation and remoteness of communities, exploratory and research work and policy development have also not given due consideration in the original TB funding formula. Our review indicated that the dedicated yearly funding levels and time frames have, generally, not permitted achievement of the desired outcomes. Requests for funding to accomplish desired objectives were often justified at costs much greater than the possible allotment. Consequently, work plans have been tailored to funding levels, milestones have not been achieved or amendments have been required to the original contribution agreement.

In the context of these limitations, the Self-Government Branch (SGB), formerly the Self-Government Negotiations Branch, has had to supplement the current funding levels to maintain negotiations momentum and progress towards an agreement. This integrated funding approach is considered to be essential to present concurrent capacity development, communications and related funding in an unified and cohesive manner at the First Nation level. It is also designed to enhance the identification of risks and opportunities that influence progress towards sub-agreements.

However, the segmentation of self-government funding authorities affects leadership and effective coordination as it requires liaison with separately managed areas by the department. Furthermore, due to scarce resources, supplemental funding cannot be made available to many negotiations which thereby remain without good governance developmental support. Without an integrated approach to funding the evolution of self-government negotiations, it is also not possible to provide comprehensive performance reporting on crucial negotiations elements such as communications and capacity development. For example, communications and capacity development are not part of the overview report to the FSC.

The lack of a collective view of how to measure success impedes performance reporting and overall accountability for results.

The SGB co-ordinates the preparation of a government- wide overview report on the progress of self-government and Comprehensive Claims Negotiations. It is tabled at the FSC and distributed to the Assistant Deputy Minister, Claims and Indian Government, Associate Deputy Minister, Deputy Minister and the Minister approximately every nine months. Data on expenditures related to specific negotiations are not provided in the report when it is tabled at the FSC.

Up to the year 2000, overview reports provided background information, current status, federal/provincial/territorial roles, key milestones and target dates of initiatives. We noted that, this year's report is being improved to include additional data such as key milestones/target dates from the previous report, progress achieved and factors affecting progress as well as challenges anticipated for the next period.

SGPD also provides self-government negotiation funding program statistics for the annual Plans and Priorities and Performance Reports for central agencies. However, the reports do not provide readers (i.e. Parliament, management) with informative performance data. The very general nature of reporting is illustrated by the following examples:

- 2000-2003 objectives -10 SG AIPs and 8 FAs, sound accountability systems for both financial and other activities, creation of FN constitution; and
- results achieved - self-government activities leading toward SG arrangements in all provinces and territories.

We observed that, for the most part, performance indicators continue to be broadly defined in terms of achieving agreements and proposed dates for initialling, signing or drafting a FWA, AIP or FA. Furthermore, overall performance reporting does not provide specific progress data against original objectives and expenditures by phase of negotiations. As a result, there is little basis to hold the government accountable for its overall annual spending on self-government negotiations and ensure it meets its obligations for reporting on performance.

It is difficult to assess whether or not funds have been spent for the purpose intended when expenditures are tied to undefined "progress" towards an agreement. It is widely accepted that, the magnitude and diversified nature of negotiations poses significant demands on the assessment of performance and reporting on such in relation to the money spent. Due to the evolving nature of negotiations and the inherent uncertainty of actual progress, specificity of results is not always feasible.

Nevertheless, the SGPD and other key negotiation participants are working towards developing improved concepts of success and progress markers which reflect appropriate resource and time allotments.

We noted that, at the regional and headquarters levels, valuable performance data exists, within accumulated status reports, deliverables and other sources, which could be consolidated to demonstrate results and overall performance and related expenditures. This information could provide the basis for developing a cost-effective information network built around/linked to performance and accountability information that is needed to monitor the progress of self-government initiatives.

Some examples of meaningful results data that were used for progress reporting are as follows:

- community consultation findings;
- education protocol; and
- network communication proposal.

Recommendation

1. The Director General, Self-Government Branch, should:
 - a) ensure the renewal of the negotiation support funding program reflects a unified and all-inclusive strategy which supports the broad objectives of both the 1996 Treasury Board Right of Self-government Policy and the *Gathering Strength* - nation and capacity building initiatives;
 - b) ensure Treasury Board Management Terms and Conditions are amended to permit flexibility of funding levels and time frames according to the unique characteristics of the different types of negotiation processes including readiness and related capacity /nation building / communication requirements;
 - c) make efforts to obtain collective agreement among key stakeholders on the critical success factors in self-government negotiations; and
 - d) place emphasis on comprehensive performance reporting which provides meaningful results and spending information to the public and parliamentarians.

Program Planning and Resource Allocation

Planning and decision-making is a collaborative exercise between various sectors of headquarters (SGPD and negotiators) and the regions through consultations, internally and externally, with the FSC, Caucuses and Tables. A valuable national networking mechanism for sharing best practices exists but is not well connected to a priority setting process for policy development and adjustment of management and operational practices.

Headquarters and regional staff engage in considerable program planning to secure agreement on objectives, deliverables/ milestones and projected costs that meet the requirements of the TB authority. The distribution of funds between recipients is guided by these criteria and standards, national and regional strategic plans and priorities (e.g. MLTC - AIP, UAC - FA, UOI Sectoral (Education) as well as the assessment of progress being made towards a FA).

Our audit indicated that, the standard Headquarters-Regional Protocol with respect to SG negotiation funding, is generally followed and tailored to the particular region or negotiation process. The SGPD, in consultation with the regions and stakeholders, determines funding allotments and terms and conditions for disbursement of funds. Negotiations teams and finance officers consult on the progress of negotiations, obstacles/challenges and reasonableness of resource requests. An analysis of comparative and historical expenditure data is also conducted to determine the cost-effectiveness of budget proposals. Further, efforts are made to identify all possible funding sources accessible to the groups to prevent duplication and overlap.

The regions consult with the recipient groups and work out particulars of the contribution agreement and cash flow attached to agreed upon milestones. Financial officers release funds according to these specifications through regular monitoring of status reports/ deliverables and expenditures. We observed that strategic, funding and fiscal committees have been created in some regions to assist in setting priorities, defining roles, responsibilities and accountability structures and the cost-effective co-ordination between federal and provincial players.

An annual conference for negotiators and other players in the negotiations process which was initiated a few years ago is considered to be an excellent mechanism for sharing best practices. Issues that need policy development are also identified as part of this initiative. Some negotiator issues have been addressed but others are repeated. There does not seem to be a good connection to a priority setting process for policy development. During the audit, the SGPD was being reorganized to strengthen its policy development capability which should strengthen the ability to address the issues raised by negotiators to be addressed according to their priority for progressing negotiations.

The TB Basis and Timing of Payment provisions state “funding to any one recipient is to be determined on an annual basis, if negotiated products and time frames are respected in relation to: availability of existing resources, other viable proposals received and stringent application of the eligibility criteria.”

We observed that this requirement to submit annual work plans impedes proactive planning and accurate resource estimates. Some regional staff expressed concern with this restriction as it forced them to agree to unattainable objectives. For example, achievement of a given level of agreement would be repeated each year where it was known to be unlikely. One year funding arrangements were also considered to place large administration requirements on a multi-year process which took staff away from their substantive responsibilities.

A method to assess and monitor “uncertainty” in negotiations has not been established.

It is widely recognized among self-government negotiation stakeholders, that setting realistic results-oriented objectives and analyzing meaningful alternatives are a major challenge due to inherent uncertainties in the negotiation process. Our review indicated that, experience with the self-government negotiation process has led to a growing realization that several inter-dependant variables influence the progress and successful completion of negotiations.

It has become increasingly apparent that the success of self-government negotiations is contingent on a wide range of legal and procedural requirements as well as the unique capacity and development needs of all participating Aboriginal parties as well as issues such as land, resources and environment, provincial concerns and policy development.

Negotiating parties and stakeholders recognize that when there is sufficient evidence to believe a risk exists, actions must be taken to reduce/prevent that risk. It is acknowledged that long lapses in progress can have detrimental effects on the eventual outcome of negotiations. A loss in momentum can result in a loss of interest and support by First Nations and have a negative impact on the achievement of joint work plan objectives.

However, the analysis of uncertainty is usually informal and intuitive, based on past experiences at the tables and networking. Funding decisions are not systematically based on a global and strategic analysis of risks and opportunities. Nevertheless, more emphasis is now being placed on building on the existing national networking mechanism for sharing “best practices” to lever “lessons-learned” into specific negotiations progress analysis and to integrate this data into annual planning. The ultimate objective is to:

- identify key risks and opportunities influencing progress;
- establish appropriate pre-requisites to negotiations;
- enhance standardization, consistency, rigour and integration; and
- determine the appropriateness of funding levels and time frames.

Only 14 of the 39 groups currently involved in negotiation funding (34%) have completed the FWA defined for the mandating part of the negotiation process. This is partly due to the fact that many of the groups were already involved in a negotiation process and had moved beyond the FWA stage. Others are currently negotiating an FWA. The FWA sets out the details necessary to begin actual negotiations including:

“Identification of the parties and their respective roles and responsibilities; an agenda and list of subject matters for negotiation; identifies areas of priority; negotiations time frames and process; level of funding support for negotiations; development of a third party communication plan; and identification milestones and products.”²”

The FWA along with an Internal Management Plan (IMP) constitute the federal mandate at the FWA stage. The FWA is a formal mechanism for articulating a “negotiation path.” At the outset, it would be possible to establish the factors which determine uncertainty in the negotiations path. The level of that uncertainty could be estimated as high, medium or low based upon established criteria for each level. As negotiations are set in motion, the time frames and cost of the negotiations path could be evaluated and articulated annually along with an assessment of the level of uncertainty. Explaining the contextual factors which are flexing the negotiations path and uncertainty levels would provide an understanding of the progress of negotiations.

² 1996 TB Negotiation Funding Authority, Annex B.

There is a recognized need to develop formal mechanisms to conduct follow-up analyses of commonly occurring obstacles to progress to establish the key/high risk areas as well as tolerance levels and mitigation options with stakeholders.

Recommendations

2. The Director General, Self-Government Branch, should ensure overall planning and funding practices reflect:
 - a) agreed upon and commonly understood results-oriented targets and measurable indicators;
 - b) an analysis of meaningful and relevant alternatives based on cost-effectiveness and efficiency factors; and
 - c) thorough internal and external environmental scans to clearly identify needs, opportunities and risks.
3. The Director General, Self-Government Branch should ensure priority is placed on developing the capability to:
 - a) gather relevant and reliable results information and exchange best practices/lessons learned for planning and decision-making;
 - b) target high risk areas and all risk factors that could facilitate or prevent the achievement of performance objectives; and
 - c) systematically assess and communicate risks and opportunities between stakeholders and ensure a common understanding and management by all.

Management and Accountability Framework

A Results-Based Management and Accountability Framework (RBMAF), as required by the Transfer Payments Policy, was under development at the time of the audit. A Risk-Based Audit Framework will also be required.

The Treasury Board authority delineates the roles, responsibilities, structures and procedures for resource allocation and oversight that should be followed during all stages of negotiations, from initial entry to signing of the final agreement. The management and accountability regime for self-government negotiation funding is executed through a variety of mechanisms such as the

Treasury Board authority, the SGNB, Headquarters - Regional Protocol, the FSC, MCSG and several Regional Committees. Throughout all types of negotiation processes, departmental management, the FSC, MCSG and Caucuses collectively review issues, progress and outcomes.

A concerted effort is being made to implement planning and monitoring mechanisms which facilitate the management of performance and risk during the negotiation process. The appropriate management structures, procedures and responsibilities have been implemented to varying degrees depending on the nature, size and complexity of the negotiation process. In some regions, committees have been put in place to perform key coordination and management functions in negotiations requiring additional rigour and control.

However, we observed that the initial TB Mandating control mechanisms such as the Framework Agreement and Internal Management Plan have only been applied in a minority of negotiation processes (only 14 since 1995), partly due to reasons cited on page fifteen of this report. Further, the standard Regional - Headquarters Protocol which was intended to be jointly reviewed in June 1997, was only being initially assessed this year.

Treasury Board's Transfer Payment Policy (TPP) (June 2000) applies to all programs with grants and contributions. Accordingly, it applies to the self-government program. The TPP requires programs to establish a "Results-Based Management and Accountability Framework" and a "Risk-Based Audit Framework (RBAF)" to manage and administer transfer payments.

The Self-Government Branch has initiated the development of a RMAF which was ongoing at the time of the audit. It was noted that the RMAF methodology being considered by the branch was used by the branch for the evaluation required as part of the 1996 TB authorities. A key feature is the separation of results into direct, intermediate and long-term outcomes - an approach which helps clarify which results the branch can control directly and others it can only influence.

It is anticipated that the branch RMAF will assist in meeting the challenges of establishing meaningful performance targets and evaluating results. The RMAF methodology being examined It should also assist in establishing commonly understood roles and responsibilities between all stakeholders for oversight, performance monitoring and control. Furthermore, within the context of this new management structure, negotiating parties will be able to better demonstrate the relevance and reliability of results measured and use this information in planning and decision-making.

A RBAF will also be required for funding renewal in accordance with the TPP. The branch had not started developing its RBAF at the time of the audit. Based on recent guidance from TB, the RBAF should consider audit requirements of the program in addition to audit of recipients of the contribution agreements.

Recommendation

4. The Director General, Self-Government Branch, should:
 - a) establish a priority on developing the Results-Based Management and Accountability Framework (RMAF) and the Risk-Based Audit Framework (RBAF) as a joint project; and
 - b) consider including a systematic risk assessment as part of the joint RMAF/RBAF project so that an explicit understanding of risk is available for decisions by the department and Treasury Board.

Organizational Infrastructure and Capabilities

Roles, responsibilities and relationships between Inter-Governmental Affairs and Funding Services units within the regions are not well established in some cases.

Our review indicated that, in some of regions, roles and responsibilities for managing self-government negotiations and related funding were not clearly defined or understood. Weak linkages between Inter-Governmental Affairs and Funding Services units in some cases impeded the effective and efficient management and control of negotiation support funding operations. We observed that a lack of integration of qualitative and financial assessments detracted from a comprehensive assessment of whether money spent on negotiation activities was used for the intended purpose.

We found that, this limited connection and knowledge transfer between these essential management functions in the regions also detracted from effective communications, internally and externally, as well as with client communities. On the other hand, one region had developed mechanisms to exchange financial and program information for the purposes of managing the self-government negotiation process. In this case, negotiators and financial officers liaised frequently to ensure the management of a particular portfolio was based on complete performance and financial data.

The SGPD recognizes the need to address these weaknesses and is planning workshops with regional staff to improve the clarity of roles, responsibilities and relationships and communication between units.

Effective communication mechanisms are essential to the progress and success of negotiations - where there is a stated preference for province, treaty or region-wide negotiations.

An evolving and increasingly geographically dispersed negotiation portfolio has put a premium on developing effective and efficient communication mechanisms to transmit timely and essential information on issues, activities and decisions between stakeholders. Currently, communication of issues and risks is enhanced through the mechanisms such as the negotiators network committee, website, newsletter (Continuum), orientation sessions, monthly conference calls, annual national conferences and regional coordinating committees.

Our audit indicated that the significance and magnitude of communication enhancements and related costs have been underestimated from the outset. The allowable funding levels and existing capabilities have not been conducive to developing information networks which meet the immediate or future communication needs of the various management and advisory committees, negotiating parties and client communities. Communication deficiencies were also cited in areas such as human resource costs, preparatory information for the tables' or inter-departmental committees' decision-making and inter - intra community consultations.

The SGPD recognizes the importance of communications to the success of negotiations, and is engaging in a number initiatives designed to improve information transmittal, vertically and horizontally, as well to engage the public and aboriginal communities.

Recommendations

5. The Director General, Self-Government Branch, should establish the key priority and a work plan with defined target dates for initiatives underway to improve communication practices.
6. The Director General, Self-Government Branch, in consultation with the Regional Directors General, should examine regional roles and responsibilities to ensure an integrated approach to managing and monitoring negotiations and related expenditures are clearly defined.

Operational Practices

A large percentage of funding is allocated for negotiation capacity and not linked to “achievement of negotiated products and milestones”.

TB Management Terms and Conditions requires that funding be tied to the delivery of negotiated products and milestones, not to process-related activities. All parties are bound to deliver upon negotiated products and milestones according to a mutually-agreed upon work plan which details the expected outcomes for each fiscal year. The schedule and basis for payments is implemented according to the Federal Cash Management Policy described in the Treasury Board Guide on Financial Administration.

The SGB's current approach to establishing the terms and conditions for resource allocation permits the release of the majority of annual funds, without the receipt of specific deliverables.

The actual proportion of cash flowed for deliverables is determined on a case-by-case basis to meet the particular needs of the negotiating parties and manage the risk to achieving objectives or reasonable progress. However, the amount held back for undelivered products is often only 10%.

This resource allocation strategy is considered necessary to provide negotiating parties with the needed financial support and flexibility to support the core negotiations “process”, which is established as the a priority “product”. While it cannot be disputed that a key priority should be to maintain momentum of core negotiations, it is equally important that a sufficient portion of the funds be tied to a specifically defined level of “progress” towards a desired outcome for any particular phase of negotiations. Without this linkage, it is difficult to assess progress and monitor actual results.

Work plans include targets that are considered unlikely but delivery risk is not estimated.

We observed that, in some cases, the timing and scheduling of deliverables and milestones were not sensitive to the needs of particular tables and that their attainment is contingent on several parties. In general, risk management is not systematically integrated into planning to enhance progress and adherence to budget/time allotments. Risk assessment tends to occur in response to presenting legal issues, disputes or crises. However, in some regions we observed best practices such as:

- internal work plans which provided a global perspective of all regional negotiations and more accurate forecasting; and
- critical path analysis for setting objectives and actions for each planned deliverable.

We noted that, headquarters has introduced a six month review clause in work planning to provide an opportunity to revisit original expectations and analyze the potential delivery risk.

Monitoring, reporting and auditing expenditures against work plan objectives were not being implemented based upon defined standards.

Regions implement accountability and reporting requirements stated in the TB Management and Minimum Terms and Conditions for Contribution Agreements and TB Guide on Financial Administration Sect 9.4.7 Cash Management. Both headquarters and regional staff engage in monitoring the timeliness and quality of deliverables. Overall, we observed that negotiated deliverables were eventually received but were, in some cases, untimely and backlogged. Our review indicated that headquarters staff employ various methods and schedules for checking TPMS to see if deliverables have been received and to subsequently follow-up with the regions. Progress monitoring and adjustments tend to be ad hoc. Tracking the receipt of deliverables for release of funds and overall record keeping also varied in degree and formality between regions. In addition, we noted that some regions do not have the capability to establish linkages with headquarters through TPMS for monitoring compliance to the terms and conditions.

Our review also indicated that the nature and degree of status reporting is discretionary except when specified in the terms and conditions. Further, within most of the regions we visited, quarterly status reporting is considered to be unrealistically product oriented and an administrative burden. The alternative of omnibus roll-up reporting used by some negotiations, is viewed as to be more effective and efficient.

We observed that, the lack of established standards and guidelines for progress and status reporting can not only result in redundant or insufficient performance reporting. It can also have an impact on the consistency and reliability of monitoring and control. In this regard, there is a need for standardized guidelines and criteria for reporting content which is appropriately tailored to the various types of negotiations objectives and priorities.

There is variability in the degree of monitoring, control and accountability measures between regions.

According to contribution guidelines, negotiation funding is a “ conditional transfer payment for a specified purpose that is subject to being accounted for or audited for the purpose of determining adherence to terms and conditions of payment and for which unexpended balances or unallowable expenditures are to be reimbursed to DIAND”.

In all the regions we examined, annual audits are reviewed by the funding group for compliance to general accounting principles and standards. However, in several areas, we found the following variability in control and accountability between regions:

- a funding committee was established to manage all funding flows, activity reports for the region and expenditure reports for headquarters;
- audits did not provide a clear delineation of self-government revenue and expenditures;
- schedules were not provided/obtained to verify any unexpected balance and recovery requirements; and
- the nature of the authority as a contribution was not understood and managed accordingly.

Recommendation

7. The Director General, Self-Government Branch, in consultation with the Regional Directors General, should:
 - a) clarify what are the products and milestones of “core activities” so that all funds can be said to be linked to products and milestones;
 - b) ensure a standard process for the systematic analysis and explicit reporting of the level of delivery risk for each set of table negotiations is established and updated annually; and
 - c) ensure standards and guidelines are established for monitoring and reporting negotiations progress as well as for providing assurance on the use of funds for intended purposes.

Appendix A
Listing of Acronyms

Appendix A - Listing of Acronyms

Acronym	Expansion
AIP	Agreements in Principle
CBSG	Community-Based Self-Government
DIAND	Department of Indian Affairs and Northern Development
FA	Final Agreement
FN	First Nation
FSC	Federal Steering Committee
FWA	Framework Agreements
HQ	Headquarters at DIAND
IR	Inherent Right
MCSG	Mandating Committee on Self-Government
RBAF	Risk-Based Audit Framework
RMAF	Results-Based Management and Accountability Framework
RCAP	Royal Commission on Aboriginal Peoples
SG	Self-Government
SGB	Self-Government Branch
SGNB	Self-Government Negotiation Branch
SGPD	Self-Government Policy Directorate
TB	Treasury Board
TPMS	Transfer Payments Management System
TPP	Transfer Payments Policy
UAC	United Anishnaabeg Councils
UOI	Union of Ontario Indians

Appendix B

Audit Criteria

Appendix B - Audit Criteria

A. Strategic Direction and Overall Co-ordination

Criteria

1. Sustained leadership, central co-ordination and Clear Direction is needed to set strategic results-oriented objectives and priorities for achieving self-government negotiations.
2. A Collective Commitment to Shared Ethics and Values should be an integral component of the management regime.
3. Planning and Decision-making practices should clearly:
 - facilitate the rational distribution of resources between recipients based on demonstrated relevance and actual need;
 - define the expected effects and impacts of activities; and
 - establish agreed-upon priorities.
4. Co-ordination Mechanisms should be in place to plan and manage activities requiring the collective involvement of more than one party.
5. Accountability for the Management of Negotiations and related Expenditures of human and fiscal resources should be clearly stated and linked with corresponding responsibility.
6. Monitoring and Reporting mechanisms should provide meaningful and relevant results and spending information to the public and parliamentarians.

B. Program Planning and Resource Allocation

Criteria

1. Plans and Funding Decisions should be:
 - consistent with priorities;
 - results-oriented reflecting measurable indicators; and
 - based on a demonstrated need and a rational distribution of resources in relation to objectives and priorities.

2. Integrated and Systematic Risk Management Practices should be in place to ensure:
- thorough internal and external environmental scanning takes place;
 - the factors that define high, medium and low impact/consequences are clearly defined;
 - high risk areas are targeted and all risk factors that could facilitate or prevent the achievement of performance objectives are well understood and managed by all; and
 - the level of risk for each set of table negotiations should be explicitly established and adapted annually.

C. Management and Accountability Frameworks

Criteria

1. Clearly defined and commonly understood Roles, Responsibilities and Relationships statements between all stakeholders should be in place for planning, managing and monitoring performance.
2. Business Planning and Performance Management practices should focus on monitoring and assessing the overall impacts and outcomes of activities, including the cost-effective attainment of objectives.
3. The Relevance and Reliability of Results Measured should be demonstrated by all key negotiating parties and used in planning and decision-making.

D. Organizational Infrastructure and Capabilities

Criteria

1. IT/IM systems should be in place to ensure efficient and effective communication and co-ordination of issues, activities and decisions between all stakeholders.
2. Integrated financial and non-financial information, should be maintained and accessible, centrally and regionally, for decision-making and accountability.
3. Organizations should foster a Productive and Competent Workforce characterized by participation, communication, initiative, commitment to learning and respect for ethical values.

E. Operational Practices

Criteria

1. Contribution Agreement Administration Practices should ensure agreements are in place and timely, in support of substantive negotiations.
2. Funding Authority Requirements are reflected in operational practices.
3. Regional groups should coordinate the implementation of monitoring and other requirements for contribution agreements.
4. Delivery risk should be estimated and monitored.

Terms of Reference

Terms of Reference

Review of Management of Terms and Conditions for Self-Government Negotiations Funding Support

Background: In 1995, the Government of Canada approved a policy approach for the Implementation of the Inherent Right and the Negotiation of Self-Government (the Inherent Right Policy). The objective of the policy was to provide a process acceptable to Aboriginal peoples, provincial/territorial governments and Canada for implementation of the inherent right through negotiation of practical and workable self-government agreements.

Since 1995, the Inherent Right policy framework and objectives have evolved significantly to accommodate the influence of the RCAP report (1996) and the federal response *Gathering Strength* (1997) and the experience gained through the varied self-government negotiation processes across the country. From an initial focus on achieving jurisdictional agreements, negotiations have broadened to address the overall framework for new government to government relationships among Aboriginal, federal and provincial/territorial governments. *Gathering Strength* recognized the need for enhanced focus on governance capacities and structures, including issues of aggregation and “rebuilding of nations” with legitimacy and accountability. It also committed to developing new fiscal arrangements more appropriate to self-government. Experience in self-government processes has also highlighted a variety of capacity needs for Aboriginal parties to effectively participate in negotiations. These include: research and internal consultation to develop a vision and consensus on new community and regional governance structures; development of public communication/consultation strategies; and interim capacity-building activities related to constitution-building, institutions and data systems.

In 1996, Treasury Board established a new class of contribution entitled: “Contribution to Inuit and Innu communities, *Indian Act* bands and band groupings to facilitate their participation in negotiation of the inherent right of self-government”. The funding authority directed that the effectiveness of the contribution be assessed by DIAND’s program evaluation directorate. This evaluation originally targeted for March 31, 1999 was delayed pending clarification of the impact of *Gathering Strength* on self-government negotiation processes.

The Federal Inherent Right Policy is a government-wide initiative affecting most government departments. Responsibility for coordinating implementation of the policy rests primarily with the Claims and Indian Government (CIG) Sector within DIAND.

- the Self-Government Branch (CIG) is generally responsible for:
 - a) overseeing the development of the Inherent Right policy framework;
 - b) the funding of self-government negotiations and monitoring of progress; and, c) the negotiation of comprehensive (multiple jurisdiction) self-government agreements not linked to comprehensive claims.
- the Comprehensive Claims Branch (CIG) is responsible for the negotiation of self-government arrangements within comprehensive land claim agreements.
- the Implementation Branch (CIG) is responsible for negotiation of implementation plans and funding agreements.
- DIAND Regional Offices lead various sectoral (single jurisdiction) self-government negotiations.

Objectives: The objective of the self-government negotiation funding is to ensure the capacity of Aboriginal groups to negotiate and conclude self-government agreements within the context of the Inherent Right Policy as it has evolved from 1995 to the present. The review will fulfill Treasury Board requirements for an assessment of the effectiveness of the contribution funding in meeting that objective. This will assist the department in preparing a submission to Treasury Board for renewal of funding authorities and for appropriate revision of management terms and conditions to enhance effectiveness.

Scope: The review will assess the overall self-government funding process from April 1996 to March 2000 by examining overall reporting on results and selected funding arrangements in a manner that takes into account risk, materiality, contribution to the broad objectives and management control framework. In addition, the review will determine whether funds have been used for the intended purposes and whether terms and conditions for funding arrangements have been met. It will also examine whether the terms and conditions for funding the self-government negotiations require changes to support the negotiation process and achieve the broad objectives of the self-government policy and *Gathering Strength*.

Within DIAND, negotiation funding is managed under a protocol which sets out responsibility of SGB, regions and other sectors at headquarters. The scope of the review will examine funding activities under this protocol; specifically, fulfilment of responsibilities in managing and controlling the negotiation of agreements and financial arrangements for comprehensive self-government negotiations at headquarters, and the regions of Quebec, Ontario, Saskatchewan and N.W.T. It will cover the fiscal period from April 1, 1996 to March 31, 2000.

Issues:

The review will provide information on the following issues:

- the extent to which the contribution class has been effective in supporting:
 - the participation of Aboriginal groups across the country;
 - the development of practical and workable models and approaches including fiscal and provincial participation to implementing self-government adapted to different circumstances across the country;
 - the engagement of participating First Nations in addressing “good governance” issues of aggregation, capacity, accountability and economy of scale;
 - the achievement of framework agreements, agreements-in-principle and final agreements and;
 - enabling First Nations to contribute to finding pragmatic solutions to policy challenges;
- the extent to which the existing management terms and conditions are effective or require adjustment to enhance effectiveness of the contribution class, by examining the following issues and questions:
 - acceptance criteria for negotiation proposals;
 - the timelines of funding decisions and processes;
 - the identification and reporting on appropriate deliverables and milestones;
 - the adequacy of existing funding levels and timeframes; and
 - the activities eligible for funding support.
- are current funding processes consistent with federal policies and federal mandates? And is it still feasible to continue negotiations under these same processes?
- should the negotiation funding be limited to qualifying recipients or should it be more flexible to include a larger membership?
- what impact has fund allocation and time frame had on the negotiation process and the quality of results achieved?

- are the funding levels commensurate with the requirements of First Nations to participate effectively in the negotiations and ratify agreements?
- are the categories for which funding is provided to First Nations appropriate and is the list comprehensive?
- in general, is the funding process suited to achieving the goals and objectives of the Self-Government policy?

Approach: The review approach will consist of a survey phase to: a) refine the review issues, b) identify any management concerns and c) establish the review methodology and programs within the context of achieving the complementary objectives of the Self-Government policy and *Gathering Strength*. The second phase will gather information according to the established methodology. The final phase which will involve analysis, debriefing and reporting of the review findings.

Resources and time frame: The review will be performed using DIAND's Departmental Audit and Evaluation Branch (DAEB) resources and consulting services. Overall management of the review will be the responsibility of DAEB. The review will begin in October 2000 and will be completed by October 2001.

Approved by:

Bill Austin
Assistant Deputy Minister
Claims and Indian Government
October 10, 2000

Existing Self-Government Negotiations across Canada involving funding under the Inherent Right Treasury Board Authority and number of First Nations / Inuit Communities Involved.

Region	Existing Tables	First Nations/ Inuit Communities
British Columbia	2	5
Alberta	1	1
Saskatchewan	1	9
Manitoba	1	1
Ontario	10	148
Quebec	7	34
Atlantic	2	7
Yukon	10	29
N.W.T.	4	23
TOTAL	39	327

(Source: Status of DIAND-Led Self-Government Negotiations Underway and Number of First Nations/Inuit Communities Involved, Self-Government Policy Directorate, June 2000).

(Note: There are a total of 83 self-government negotiation tables across Canada, including those in the BCTC process).

Cost/Source of funds :

1996-1997	1997-1998	1998-1999	1999-2000
\$14.7m	\$14.7m	\$14.7m	\$14.7m

(Source: Overview Report on Status of Self-Government Negotiations/Initiatives - Self-Government Policy Directorate, September 1999)

Action Plan

PROJECT TITLE / TITRE DU PROJET : Audit of Self-Government Negotiations Funding Process and Practices

REGION OR SECTOR / RÉGION OU SECTEUR : Self-Government Branch

(1) RECOMMENDATIONS / RECOMMANDATIONS	(2) REPORT / RAPPORT PAGE NO.	(3) ACTION PLAN / PLAN D'ACTION	(4) RESPONSIBLE MANAGER / GESTIONNAIRE RESPONSABLE (TITLE / TITRE)	(5) PLANNED IMPLEMENTATION DATE / DATE PRÉVUE DE MISE EN OEUVRE
<p>1. The Director General, Self-Government Branch, should:</p> <p>a) ensure the renewal of the negotiation support funding program reflects a unified and all-inclusive strategy which supports the broad objectives of both the 1996 Treasury Board Right of Self-government Policy and the <i>Gathering Strength</i> - nation and capacity building initiatives;</p>	<p>13</p>	<p>A Treasury Board Submission is currently being drafted which will request a revised approval of Self-Government Negotiation Funding Support Program (SGNFSP) authority for a period of 5 years. At this time, the amalgamation of the SGNFSP with the Gathering Strength - nation and capacity building initiatives cannot be done. That authority does not terminate until 2005, and the branch will work closely with LTS who has the lead in this program renewal to ensure our input. However, linkages between both programs will be made in the TB Submission.</p>	<p>Director, Self-Government Policy Directorate (SGPD)</p>	<p>April 30, 2002</p>

PROJECT TITLE / TITRE DU PROJET : Audit of Self-Government Negotiations Funding Process and Practices

REGION OR SECTOR / RÉGION OU SECTEUR : Self-Government Branch

(1) RECOMMENDATIONS / RECOMMANDATIONS	(2) REPORT / RAPPORT PAGE NO.	(3) ACTION PLAN / PLAN D'ACTION	(4) RESPONSIBLE MANAGER / GESTIONNAIRE RESPONSABLE (TITLE / TITRE)	(5) PLANNED IMPLEMENTATION DATE / DATE PRÉVUE DE MISE EN OEUVRE
b) ensure Treasury Board Management Terms and Conditions are amended to permit flexibility of funding levels and time frames according to the unique characteristics of the different types of negotiation processes including readiness and related capacity / nation building / communication requirements;	13	The TB Submission being drafted will seek to have the management terms and conditions amended to include these. The work will be informed by both the audit, the formative evaluation currently being completed and our own research.	Director, Self-Government Policy Directorate (SGPD)	April 30, 2002
c) make efforts to obtain collective agreement among key stakeholders on the critical success factors in self-government negotiations; and	13	The formative evaluation will inform the development of success factors. We will then examine how to obtain agreement - i.e. test and validation process.	Director, Self-Government Policy Directorate (SGPD)	September 30, 2002

PROJECT TITLE / TITRE DU PROJET : Audit of Self-Government Negotiations Funding Process and Practices

REGION OR SECTOR / RÉGION OU SECTEUR : Self-Government Branch

(1) RECOMMENDATIONS / RECOMMANDATIONS	(2) REPORT / RAPPORT PAGE NO.	(3) ACTION PLAN / PLAN D'ACTION	(4) RESPONSIBLE MANAGER / GESTIONNAIRE RESPONSABLE (TITLE / TITRE)	(5) PLANNED IMPLEMENTATION DATE / DATE PRÉVUE DE MISE EN OEUVRE
d) place emphasis on comprehensive performance reporting which provides meaningful results and spending information to the public and parliamentarians.	13	Results-based Accountability and Management Framework (RMAF) and Risk-Based Audit Framework (RBAF) are currently being developed which will respond to this recommendation.	Director, Self-Government Policy Directorate (SGPD)	February 28, 2002
2. The Director General, Self-Government Branch, should ensure overall planning and funding practices reflect: a) agreed upon and commonly understood results-oriented targets and measurable indicators; b) an analysis of meaningful and relevant alternatives based on cost-effectiveness and efficiency factors; and	16	The formative evaluation and the RMAF will identify the results-oriented targets and measurable indicators. We will then adjust our planning processes accordingly.	Director, Self-Government Policy Directorate (SGPD)	February 28, 2002
	16	Through the development of the RMAF, RBAF, and through our own internal review of existing practices, we will be reviewing and modifying our overall planning and funding processes.	Director, Self-Government Policy Directorate (SGPD)	February 28, 2002

PROJECT TITLE / TITRE DU PROJET : Audit of Self-Government Negotiations Funding Process and Practices

REGION OR SECTOR / RÉGION OU SECTEUR : Self-Government Branch

(1) RECOMMENDATIONS / RECOMMANDATIONS	(2) REPORT / RAPPORT PAGE NO.	(3) ACTION PLAN / PLAN D'ACTION	(4) RESPONSIBLE MANAGER / GESTIONNAIRE RESPONSABLE (TITLE / TITRE)	(5) PLANNED IMPLEMENTATION DATE / DATE PRÉVUE DE MISE EN OEUVRE
c) thorough internal and external environmental scans to clearly identify needs, opportunities and risks.	16	Through the development of the RMAF, RBAF, and through our own internal review of existing practices, we will be reviewing and modifying our overall planning and funding processes.	Director, Self-Government Policy Directorate (SGPD)	February 28, 2002
3. The Director General, Self-Government Branch should ensure priority is placed on developing the capability to: a) gather relevant and reliable results information and exchange best practices/lessons learned for planning and decision-making; b) target high risk areas and all risk factors that could facilitate or prevent the achievement of performance objectives; and	16	The existing systems and practices will be subjected to an internal review to further gather and share information and further develop this capability.	Director, Self-Government Policy Directorate (SGPD)	September 30, 2002
	16	The development of the RBAF will identify all of the high risk areas which could facilitate or prevent the achievement of performance objectives.	Director, Self-Government Policy Directorate (SGPD)	February 28, 2002

PROJECT TITLE / TITRE DU PROJET : Audit of Self-Government Negotiations Funding Process and Practices

REGION OR SECTOR / RÉGION OU SECTEUR : Self-Government Branch

(1) RECOMMENDATIONS / RECOMMANDATIONS	(2) REPORT / RAPPORT PAGE NO.	(3) ACTION PLAN / PLAN D'ACTION	(4) RESPONSIBLE MANAGER / GESTIONNAIRE RESPONSABLE (TITLE / TITRE)	(5) PLANNED IMPLEMENTATION DATE / DATE PRÉVUE DE MISE EN OEUVRE
c) systematically assess and communicate risks and opportunities between stakeholders and ensure a common understanding and management by all.	26	Once the risks are identified, we will assess how best to communicate risks and opportunities between stakeholders, with the aid of the Communications Branch.	Director, Communications Branch	September 30, 2002
4. The Director General, Self-Government Branch, should: a) establish a priority on developing the Results-Based Management and Accountability Framework (RMAF) and the Risk-Based Audit Framework (RBAF) as a joint project; and	18	The consulting firm of PMN have been contracted to work with officers of the SGB to jointly develop the RMAF and RBAF documents.	Director, Self-Government Policy Directorate (SGPD)	February 28, 2002

PROJECT TITLE / TITRE DU PROJET : Audit of Self-Government Negotiations Funding Process and Practices

REGION OR SECTOR / RÉGION OU SECTEUR : Self-Government Branch

(1) RECOMMENDATIONS / RECOMMANDATIONS	(2) REPORT / RAPPORT PAGE NO.	(3) ACTION PLAN / PLAN D'ACTION	(4) RESPONSIBLE MANAGER / GESTIONNAIRE RESPONSABLE (TITLE / TITRE)	(5) PLANNED IMPLEMENTATION DATE / DATE PRÉVUE DE MISE EN OEUVRE
<p>b) consider including a systematic risk assessment as part of the joint RMAF/RBAF project so that an explicit understanding of risk is available for decisions by the department and Treasury Board.</p>	<p>18</p>	<p>This is being included in the RMAF/RBAF documents being developed.</p>	<p>Director, Self-Government Policy Directorate (SGPD)</p>	<p>February 28, 2002</p>

PROJECT TITLE / TITRE DU PROJET : Audit of Self-Government Negotiations Funding Process and Practices

REGION OR SECTOR / RÉGION OU SECTEUR : Self-Government Branch

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5. The Director General, Self-Government Branch, should establish the key priority and a work plan with defined target dates for initiatives underway to improve communication practices.	19	A workplan is being developed. A key aspect of this work is the negotiator's communications tool kit, scheduled for presentation at the December 2001 negotiator's conference.	Director, Self-Government Policy Directorate (SGPD)	Septembre 30, 2002
6. The Director General, Self-Government Branch, in consultation with the Regional Directors General, should examine regional roles and responsibilities to ensure an integrated approach to managing and monitoring negotiations and related expenditures are clearly defined.	19	The Directorate is currently reviewing the protocol agreement between headquarters and regions, in consultation with Transfer Payments Branch to ensure the implementation of an integrated approach. A series of meetings and teleconferences are being held with each region to review, revise and agree upon a revised monitoring/management system.	Director, Self-Government Policy Directorate (SGPD)	December 31, 2002

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<p>c) ensure standards and guidelines are established for monitoring and reporting negotiations progress as well as for providing assurance on the use of funds for intended purposes.</p>	<p>22</p>	<p>As appropriate standards are established, SGPD, in cooperation with headquarters and sectors, will determine the monitoring processes and action to be taken in the event of non-compliance. Relevant policies addressing the issue of monitoring will be updated as required.</p>	<p>Director, Self-Government Policy Directorate (SGPD)</p>	<p>September 30, 2002</p>