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REPORT ON THE

AUDIT OF THE

CANADA-TERRITORIAL COOPERATIVE AGREEMENT FOR

ABORIGINAL LANGUAGES

CORPORATE REVIEW BRANCH

CANADIAN HERITAGE

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EXECUTIVE SUMMARY

In 2003, the Assurance Services Directorate of the Corporate Review Branch, Canadian Heritage (PCH) conducted an audit of the Canada-Territorial Aboriginal Languages Cooperation Agreements which is administered by the Aboriginal Programs Directorate (APD). Under this program funding is provided to the Government of the Northwest Territories (GNWT), the Government of Nunavut (GN) and the Government of Yukon (GY) to support the preservation, development and enhancement of Aboriginal languages.

The objectives of the audit were to provide PCH program management with assurance that management control frameworks and management practices are appropriate to ensure compliance, program delivery, program effectiveness and financial integrity; that information for decision-making and reporting is timely, relevant and reliable; that risk management strategies and practices are suitable and deliver the intended results; and that the program design and implementation reflects the objectives of the Department of Canadian Heritage.

The audit examined the management control framework of the program and related program delivery mechanism. Agreements that were in place between Canada and the territorial governments covering the 2001-2002 and 2002-2003 fiscal years were subject to audit.

We concluded that the agreements with the territorial governments for Aboriginal languages seem to best fit the definition of a Flexible Transfer Payment (FTP), although there are some aspects that are more consistent with the attributes of Alternative Funding Arrangements (AFA)¹. Both of these forms of contribution payments were developed for the Department of Indian and Northern Affairs to meet their unique program objectives. The appropriate vehicle for transferring funds to the territorial governments for Aboriginal languages must be determined in consultation with PCH's Centre of Expertise, Grants and Contributions, the departmental Legal Services and Treasury Board Secretariat. This decision should guide APD in determining what key elements must be present in the management control framework.

The management control frameworks and practices in place are generally appropriate to ensure compliance, program effectiveness and financial integrity. The framework for

¹A description of these other forms of transfer payments is provided in the TBS *Guide on Financial Arrangements and Funding Options*.



the agreements with the GY and the GNWT in particular, are focused on expected results and outcomes in a manner consistent with the requirements of the 2000 TBS *Policy on Transfer Payments*. Some further strengthening of the control framework especially as it relates to the control framework for carrying out the role of third party delivery agent, may be appropriate to better align all three agreements with the requirements of the 2000 *Policy*.

Positive steps are being taken by PCH to make the information it receives from the territorial governments more relevant. These efforts may have contributed to some of the very lengthy delays experienced by PCH during the period covered by the audit, in receiving required reports. Evaluations underway at the time of the audit fieldwork for the agreements with the GNWT and the GY, should provide an independent verification of the results being achieved through those agreements. A financial audit of the GN's records may be necessary to obtain sufficient assurance on the reliability of their reporting.

The key risk associated with the agreements is the extent to which a third party (the territorial government) will administer the agreement in a manner consistent with the requirements of the 2002 *Policy on Transfer Agreements*. This risk can be mitigated by describing the Territorial government's control framework in the agreement as required by the *Policy*, by conducting periodic evaluations as was being done for the agreements with the GNWT and the GY at the time of the audit fieldwork, and by having periodic audits of the agreement conducted by the territorial government's internal auditors. A better linkage between payments and the provision of required information will also serve to mitigate PCH's risk.



1.0 INTRODUCTION AND BACKGROUND

The Aboriginal Programs Directorate (APD) of the Department of Canadian Heritage supports Aboriginal infrastructures at national, regional and community levels for First Nations, non-status Indian, Métis and Inuit living off-reserve. Its programs are crucial to facilitating the efforts of off-reserve Aboriginal communities to improve their quality of life and their place in Canadian society. The APD administers several funding programs, including the Canada-Territorial Aboriginal Languages Cooperation Agreements. The territorial agreements cover Aboriginal Languages and French as an official language. The scope of the audit only included the Aboriginal Languages component of the agreements. For French as an official language, funding is administered as part of the promotion of Official Languages Program. The Aboriginal components of these Agreements are administered from the APD at Headquarters (HQ), but regional representatives co-chair the Agreement Management Committee (AMC) on behalf of the APD. More specifically, the administration of the Program/Accord is the responsibility of HQ, and the administration of the Agreements is the responsibility of the AMC.

Pursuant to the approved PCH Audit and Evaluation plan for 2003-2004 the Assurance Services Directorate of the Corporate Review Branch, Canadian Heritage (PCH) conducted an audit of the Canada-Territorial Aboriginal Languages Cooperation Agreements.

In the late 1970s and early 1980s, the Government of Canada negotiated agreements with each province and territory to delineate appropriate programs and financial cooperation regarding the implementation of the *Official Languages Act*. In the mid to late 1980s, the Government of Canada entered into agreements with the territorial governments that recognized the preservation, development and enhancement of Aboriginal languages as important, mutual goals.

Separate agreements are now in place with each territorial government.

Canada-Northwest Territories Cooperation Agreement

The most recent five-year agreement was signed January 5, 2000 by the Minister of Education, Culture and Employment for the GNWT and the Minister of Canadian Heritage and provides \$1.9 million annually in funding. The objectives of the agreement are to provide:



- for the development and implementation of language revitalization, maintenance and enhancement activities by Aboriginal language communities;
- GNWT programs which support the revitalization, maintenance and enhancement of the Northwest Territory's (NWT) official Aboriginal languages;
- language resources and technical support to assist with the delivery of GNWT programs and services that promote the use of NWT Aboriginal languages as living and working languages.

Canada-Nunavut Cooperation Agreement

When Nunavut was established April 1, 1999, the Canada-NWT accord on the preservation, development and enhancement of Aboriginal languages was deemed to apply equally to Nunavut. The Government of Nunavut initially signed a two year agreement with PCH and since then has renewed its agreement on an annual basis. The agreements have provided \$1.1 million annually.

The objectives of the agreement are:

- to cooperate and provide for measures designed to preserve Inuktitut, both spoken dialects and written forms, including syllabics and Roman orthography;
- to cooperate and provide for measures designed to promote the learning of Inuktitut by people of all ages in their communities;
- to cooperate and assist in the delivery of Nunavut programs, services, resource development, and other development, which supports the use of Inuktitut as living and working language;
- to cooperate on measures designed to assist unilingual speakers of Inuktitut in public and community life;
- to provide for the research, consultation, administrative and policy support to implement those programs and services;
- to support community development;
- to cooperate and provide for initiatives designed to identify communities where Inuktitut is at particularly high risk and to respond immediately with supportive and revitalizing programs and services.

Canada-Yukon Cooperation Agreement

An agreement was signed in August 1998 by the Government Leader of the Yukon and the Minister of Canadian Heritage that covered the period April 1, 1998 to March 31, 2003. The agreement provided \$1.1 million a year. The objectives of the agreement were to:



- foster the maintenance, revitalization, growth and protection of the Aboriginal languages of the Yukon;
- enable Yukon Aboriginal communities to assume increased ownership of their Aboriginal languages responsibilities; and
- assist the Aboriginal communities to meet their language needs.

2.0 OBJECTIVES AND SCOPE

2.1 Objectives

The purpose of the audit was to provide APD program management with reasonable assurance on the soundness of its processes and to identify opportunities to strengthen management practices. Accordingly, this audit addressed the following objectives:

- management controls frameworks (systems, procedures, controls and resources) and management practices are appropriate to ensure compliance, program effectiveness and financial integrity.
- information used for decision-making and reporting is timely, relevant and reliable.
- risk management strategies and practices are suitable and deliver the intended results
- program design and implementation reflects the objectives of the Department.

2.2 Scope

The audit examined the PCH management control framework for the Canada-Territorial Cooperative agreement for Aboriginal Languages and related program delivery mechanism. Funding provided during the fiscal years 2001-2002 and 2002-2003 was subject to audit.

3.0 METHODOLOGY

3.1 Audit Criteria



Criteria against which observations, assessments and conclusions were drawn in conducting the audit were based on:

- the requirements of the October 1996 and the 2000 Treasury Board Secretariat *Policy on Transfer Payments*²;
- Treasury Board Secretariat *Guide on Financial Arrangements and Funding Options*³;
- the approved terms and conditions (T's & C's) of the Aboriginal Languages in the Yukon and the Aboriginal Languages in the Northwest Territories;
- the agreements between the Government of Canada and each of the territorial governments covering the promotion of Aboriginal languages for the fiscal years 2001-2002 and 2002-2003.

Specific criteria for the four audit objectives are included in Annex A of this report.

3.2 Fieldwork

Audit fieldwork was carried out in Canadian Heritages offices in Gatineau, Regina, Winnipeg, Vancouver, and Yellowknife between November 2003 and January 2004. Specific audit activities included:

- Review of the approved T's & C's for the Aboriginal Languages in the Yukon and the Aboriginal Languages in the Northwest Territories that were applicable for the period 2001-2003;
- Review of the signed agreements between the Government of Canada and the Governments of Yukon, Northwest Territories and Nunavut for the promotion of Aboriginal languages during the period 2001-2003;
- Review of PCH processes and procedures for the administration of the language agreements with the territorial governments;
- Review of PCH documentation associated with the administration of the program. This included terms of reference for the Agreement Management Committees

²The revised policy took effect on June 1, 2000 and replaced the *Policy* dated October 15, 1996 and the *Policy on Repayable Contributions*. The approved terms and conditions for existing transfer payment programs continue to apply until the earlier of their expiry date or March 31st, 2005, at which time Departments must obtain Treasury Board approval to replace or renew the existing terms and conditions. An Information Notice issued by TBS on June 1, 2000 indicated that only transfer payment agreements signed after August 31st, 2000 were required to reflect the change in policy.

³Accessible at http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TBM_133/ARRA_e.html



- (AMC), minutes of AMC meetings, activity and financial reports submitted by the territorial governments, correspondence between PCH and the territorial governments, etc.; and
- Interviews with management and staff in APD and in Western and Prairies and Northern Regions.

The audit was carried out in accordance with the professional practice standards set out in the Treasury Board of Canada Secretariat's *Policy on Internal Audit* and by the Institute of Internal Auditors.

4.0 CONCLUSIONS

We offer the opinion that:

- the management control frameworks and practices in place are generally appropriate to ensure compliance, program effectiveness and financial integrity. The framework for the agreements with the GY and the GNWT in particular, are focused on expected results and outcomes in a manner consistent with the requirements of the 2000 TBS *Policy on Transfer Payments*. Some further strengthening of the control framework especially as it relates to the control framework for carrying out the role of third party delivery agent, may be appropriate to better align all three agreements with the requirements of the 2000 *Policy*.
- positive steps are being taken by PCH to make the information it receives from the territorial governments more relevant. These efforts may have contributed to some of the very lengthy delays experienced by PCH during the period covered by the audit, in receiving required reports. Evaluations underway at the time of the audit fieldwork for the agreements with the GNWT and the GY, should provide an independent verification of the results being achieved through those agreements. A financial audit of the GN's records may be necessary to obtain sufficient assurance on the reliability of their reporting.
- the key risk associated with the agreements is the extent to which a third party (the territorial government) will administer the agreement in a manner consistent with the requirements of the 2002 *Policy on Transfer Agreements*. This risk can be mitigated by describing the Territorial government's control framework in the agreement as required by the *Policy*, by conducting periodic evaluations as was being done for the agreements with the GNWT and the GY at the time of the



audit fieldwork, and by having periodic audits of the agreement conducted by the territorial government's internal auditors. A better linkage between payments and the provision of required information will also serve to mitigate PCH's risk.

- the agreements with the territorial governments for Aboriginal languages seem to best fit the definition of a Flexible Transfer Payment (FTP), although there are some aspects that are more consistent with the attributes of Alternative Funding Arrangements (AFA)⁴. Both of these forms of contribution payments were developed for the Department of Indian and Northern Affairs to meet their unique program objectives. The appropriate vehicle for transferring funds to the territorial governments for Aboriginal languages must be determined in consultation with PCH's Centre of Expertise, Grants and Contributions, the departmental Legal Services and Treasury Board Secretariat. This decision should guide APD in determining what key elements must be present in the management control framework.

5.0 OBSERVATIONS AND RECOMMENDATIONS

5.1 Program Design and Implementation

Since the agreements were originally signed with the territorial governments for the support of Aboriginal language communities, the Canadian government's policy framework for transfer payments has changed significantly. There is now a recognition that there are a variety of forms that transfer payments can take including grants, contributions (this category includes Alternate Funding Arrangements and Flexible Transfer Payments, which were developed for the Department of Indian and Northern Affairs to meet their unique program objectives), and Other Transfer Payments (OTP). Examples of OTPs are transfers to other levels of government such as Equalization payments as well as Canada Health and Social Transfer payments.

The agreement between the Government of Canada and each of the territorial governments for Aboriginal languages does not appear to fully meet any of the current definitions for transfer payments. While the funding in the agreements with the territorial governments is described as being a "contribution", there are aspects of the relationship

⁴A description of these other forms of transfer payments is provided in the TBS *Guide on Financial Arrangements and Funding Options*.



that make it difficult to apply all of the normal requirements associated with a contribution agreement.

Each of the agreements provides funding to the territorial governments for a specified purpose and there is an expectation that accounting will be provided on how the funds were utilized. The level of influence that can be exerted, however, is less than what is possible with an organization that operates at arm's length from the Government of Canada, as each territorial government has been established through federal legislation and has been delegated jurisdiction in certain areas such as education.

The Nunavut government has also been given specific authority to make laws regarding "the preservation, use and promotion of the Inuktitut language, to the extent that the laws do not diminish the legal status of, or any rights in respect of, the English and French languages"⁵.

Also impacting on the agreement with the Yukon government is the *Yukon First Nations Self-Government Act* which gives authority to First Nations, to the extent provided by its self-government agreement, the power to enact laws applicable in Yukon in relation to the "provision of programs and services for citizens of the first nation in relation to their Aboriginal languages"⁶. This provision has been included in the agreement with the GY.

Key attributes of the signed agreements with the territorial governments were compared with descriptions of different transfer payment arrangements (see Annex B). The agreements appear to best fit the definition of a Flexible Transfer Payment. FTPs are conditional transfer payments for a specified purpose for which unexpended balances may be retained by the recipient, provided that the program terms and conditions have been fulfilled. Through performance reports, and through audited statements where it may be considered necessary, the recipient must demonstrate that the results have been achieved as specified in the funding arrangement. FTPs emphasize the program results, not the reimbursement of actual expenditures.

The agreements with the territorial governments also have some similarities with Alternative Funding Arrangements in that they are based on negotiations between the parties. It is only through a negotiated process that the legislated rights of the territorial governments and ongoing negotiations with many First Nations groups under an

⁵*Nunavut Act*, Section 23.(1)(n)

⁶*Yukon First Nations Self-Government Act*, Section 11.(1)(b)



inherent right to self-government policy on Aboriginal jurisdiction over language, culture and education, can be properly taken into account.

The category of transfer payment agreement with the territorial governments should be confirmed in consultation with PCH's Centre of Expertise, Grants and Contributions, the departmental Legal Services and the Treasury Board Secretariat. This knowledge should guide APD in determining what key elements must be present in the management control framework. If it is not possible to include these required elements in an agreement negotiated with a territorial government, then a specific exemption will have to be sought from the Treasury Board.

5.1.1 Recommendation

That the Director, Aboriginal Programs Directorate determine in consultation with the Centre of Expertise Grants and Contributions, the departmental Legal Services and the Treasury Board Secretariat what category of transfer payments the agreements with the territorial governments for Aboriginal languages fall into and what elements of the TBS *Policy on Transfer Payments* are applicable.

5.1.1 Management Response

Recommendation accepted

In the context of its program renewal process, the Aboriginal Programs Directorate (APD) will review the categories of transfer payments and will utilize the most appropriate vehicle for its programs and initiatives, including the territorial agreements (program renewal process underway - completed March 2005).



5.2 Appropriateness of the Management Control Frameworks and Practices

The program was found to generally comply with appropriate acts, regulations, terms and conditions, applicable agreements and government policy. The fact that the agreements are not clear on the treatment of surplus leads to inconsistencies. While the GN had a surplus of \$17,468 for 2001-2002 which was not offset against the second payment made in 2002-2003, the GNWT had a similar situation where the surplus was offset against the second payment made in 2002-2003. The 2000 *Policy on Transfer Payments* which applies to the agreements with Nunavut included in the scope of this audit, since they were all signed after September 2000, requires this overpayment be recovered for contributions. If the arrangement is ultimately deemed to be an AFA or FTP or something similar, then the territorial governments could retain the surplus.

It was noted that all three agreements have payment terms that are not consistent with the TBS *Policy on Transfer Payments* but authority was sought and obtained for this variance. In each case, 50% of the funds are provided each year on April 1st or upon signing of the agreement and the balance is provided in October. There is no provision for holdbacks as required by the *Policy*.

While the program was in compliance with the legislative and policy framework that was in effect when agreements were initially entered into with the territorial governments, there are elements of the control framework that could be enhanced and would better align it with the requirements of the 2000 *Policy on Transfer Payments*. These are described in the balance of this section.

Identification, Monitoring and Assessment of Results

The identification of results was not described in the same way in each agreement:

- The agreements with the GNWT and the GY required that an action plan be developed for each objective to the agreement that sets out:
 - a description of desired results/outcomes;
 - a description of the measures to be undertaken or examples of the activities to be undertaken; and
 - a description of performance indicators.
- The agreement with Nunavut only required that approved projects be described including an outline of projected activities.

Funding of planned activities in all cases is subject to the agreement of both parties to the agreement.



The management frameworks established by the agreements with the GNWT and the GY are consistent with the requirements of the TBS *Policy on Transfer Payments* with the focus on results.

The agreement with Nunavut would be better aligned with the requirements of the *Policy* if it specifically addressed expected results and outcomes, and performance indicators. The current agreement does include a provision that the parties will undertake an evaluation of the Aboriginal language agreement and that within twelve months of signing the agreement may develop a mechanism for evaluating the measures and projects undertaken. A Results-based Management Accountability Framework (RMAF) was submitted to the government of Nunavut May 16, 2002 by consultants that built on an initial RMAF that had been prepared by the Nunavut Department of Culture, Language, Elders and Youth. According to the Prairies and Northern Region program officer responsible for administering the agreement, despite having commissioned the RMAF, the GN is no longer willing to finalize it and implement it, in part because the agreement with Canada makes no reference to it.

5.2.1 Recommendation

That the Director, Aboriginal Programs Directorate ensure that the next agreement with the Government of Nunavut include an action plan for each objective to the agreement that sets out:

- a description of desired results/outcomes;
- a description of the measures to be undertaken or examples of the activities to be undertaken; and
- a description of performance indicators.

5.21 Management Response

Recommendation accepted

The APD will continue to work with the Government of Nunavut in the development of a delivery framework that focuses on desired results/outcomes, measures/activities to be undertaken, and performance indicators (March 2005).

All three agreements required that annual activity reports be provided for the approval of the AMC co-chairs. Canada's second and final payment each year was conditional on its receipt of the annual activity report and the year-end financial statements covering



the previous fiscal year and Canada's acceptance of these reports. The agreement with the GNWT also called for the AMC to review annual activity reports and financial statements. The inclusion of this provision in the agreement, provides a framework whereby results will be monitored and assessed on a regular basis, thereby supporting sound management practices.

Approval of Projects

Under the terms of the agreements with the territorial governments, only the projects carried out as part of the agreement with the GN required the concurrence of Canada. Annexes were provided in each of 2001-2002 and 2002-2003 which listed the title of the planned project, the organization carrying it out, the amount approved, the evaluation score and priority ranking. The agreement called for "an outline of projected activities". What was provided in the Appendix to the agreement in our estimation, is insufficient to provide Canada with the necessary understanding of how the funds will actually be used.

With the GNWT and the GY, the focus is on desired results and the types of measures that will be undertaken. Both are required to provide a description of the desired outcomes. The GY is required to provide a description of the measures to be undertaken and the GNWT is to provide examples of the activities to be undertaken. These annual plans are subject to the approval of the AMC Co-chairs. This kind of process is consistent with the requirements for FTPs or AFAs as summarized in Annex B.

For all practical purposes, the selection and approval of projects for all three agreements is managed and controlled by the territorial governments. PCH regional program officials did not know the specifics of the process followed by each of the territorial governments to select projects.

- The Yukon government has delegated project selection to a 14 member Aboriginal Advisory Committee. PCH Western Region program officials are unaware of the project selection methods used.
- The GNWT formed an Aboriginal Language Committee (members representing the Aboriginal language groups) to select projects. No further information is known by PCH officials of the process used to select projects for funding. Some complaints have been voiced by the community to PCH Northern and Prairies Region about the GNWT's selection process.
- The Government of Nunavut has not shared with PCH the specifics of its process. They have provided copies of project assessment templates which



according to PCH Prairies and Northern Region officials were developed by the Department and provided to the GN, which then added its own logo. No evidence was available that would demonstrate whether or not the project assessment templates are consistently utilized.

In each instance, the territorial government is effectively acting as a third-party delivery agent on behalf of the Government of Canada. Appendix C of the June 2000 TBS *Policy on Transfer Payments* requires that agreements with third parties or recipients who further distribute the contribution amounts include:

- a description of the initial recipient accountability and management framework;
- assurance that the public purpose of the program and the need to provide transparent, fair and equitable service are not lost in the desire for efficiency;
- clear, transparent and open decision making process;
- assurance that departmental requirements for selecting and managing projects are met;
- provision for ongoing assessment by the department to ensure performance is in line with expectations and that the initial recipient exercises due diligence in selecting and managing projects;
- provision related to the requirements for the initial recipient's operating plans including annual performance expectations and a description of the process to select and approve projects
- provision that the department obtains from the initial recipient, or has ready access to, a copy of all signed agreements with recipients.

These requirements which only applied to the agreements signed with the GN for the period covered by this audit, were not present in any of the agreements reviewed. The 1996 TBS *Policy on Transfer Agreements* which applied to the agreements with the GY and the GNWT did not prescribe any specific requirements for third party agreements. Any future agreements with the territorial government will, however, fall under the provisions of the 2000 *Policy on Transfer Payments*

5.2.2 Recommendation

That the Director, Aboriginal Programs Directorate ensure that the next agreement with each territorial government include the requirements set out in Appendix C of the June 2000 TBS *Policy on Transfer Payments* with respect to agreements with third parties who further distribute the contribution amounts or ensure that specific



exemption is obtained from Treasury Board not to include these requirements.

5.2.2 Management Response

Recommendation accepted.

As a result of the selected funding mechanism discussed in Recommendation 5.1.1, the APD will assist its stakeholders in meeting their agreement obligations as set out in Appendix C of the TBS Policy on Transfer Payments. The Directorate will provide them work tools such as templates as well as a Results-Based Management Accountability Framework and a Risk-Based Audit Framework (second quarter of 2005-06 fiscal year).

5.3 Information for Decision-Making and Reporting

Each agreement with the territorial government acknowledges that both parties to the agreement must be able to demonstrate to the Parliament of Canada, to the respective Legislative Assembly, and to the Canadian public, that the financial assistance received from Canada under the terms of the agreement contributes to the attainment of the objectives set out. The year-end financial statements and the annual activity report are considered sufficient under the agreements to demonstrate that Canada's contribution is related to the costs incurred.

The year-end financial statements and annual activity reports provided by the three territorial governments are varied in detail and format:

- the report for 2001-2002 from the GNWT provided information by approved objective. It was more detailed than the one provided in 2000-2001 as a result of changes requested by PCH. The department required that the information provided by the GNWT should make it possible to evaluate:
 - what was achieved or produced and what stage was reached in the activities at the end of the year;
 - the successes and difficulties (the report should explain the reasons why a result was not achieved or partly achieved) and future challenges;
 - the plans for completing or continuing the activities the next year.



A very detailed report was submitted that described by objective: the results achieved, the indicators, activities, collection methods/sources, and progress towards achieving the results. The financial report simply indicated the total expenditures by objective. No detail was provided on the nature of the expenditures incurred. At the time the audit field work was undertaken, the report for 2002-03 had not yet been submitted.

- the report from the Government of Nunavut provided a description for each project⁷, the initiatives⁸ and activities undertaken, and the results achieved. In each case the reported expenses for each initiative were exactly equal to the planned budget or very close. Of 32 planned projects, one did not proceed, and only three reported actual expenditures that varied by more than \$1 from what was originally planned. This lack of variance between budget and the amount of expenditures is unusual unless the GN treated the funding it provided to the ultimate recipients as a grant. The PCH program officer responsible for administering this agreement voiced concerns to the audit team about the reliability of the information provided in its reports by the GN. The accuracy and reliability of the information could only be verified through an audit of the GN's records. Clause 11.1 of the agreement between the two governments gives Canada the right to undertake, or cause to have undertaken, a financial audit of the accounts and records of Nunavut concerning the projects funded by Canada.

The May 16, 2002 *Draft Final RMAF and Report from Consultations on Key Elements of the Framework* notes that the "Department of Culture Language Elders and Youth has limited resources to meet the requirements of implementing the Agreement. Therefore, the ongoing monitoring work of the department has been kept to the minimum required so as not to increase excessively administrative demands on the department." It was noted, that there does not appear to be any provision for covering any part of the GN's administrative expenses in the budget set out.

At the time the audit fieldwork was conducted, the report for 2002-2003 had not been provided. Efforts were underway in late 2002, to develop a reporting format for the GN similar to that utilized with the GNWT.

⁷Equivalent to objectives and measures in the agreements with GY and GNWT respectively.

⁸Equivalent to projects in the agreements with the GNWT and the GY.



- the reports from the GY provide a narrative description by measure of the approved objectives; the key achievements; the types of initiatives funded; names of all recipients; project title; amount of funding made available; and language supported. The level of detail in the annual reports is significantly less than that requested from the GN and the GNWT, whose agreements are administered by a different PCH Region.

The statement of expenditures is presented by approved measure and set out the administrative costs incurred and the amount of funding provided to third parties. Fifty-eight per cent of the funds provided were used in 2002-03 for contribution agreements and the balance for salaries (31%), contract services including the conduct of an evaluation of the agreement (7.2%), and other administrative costs including travel (3.8%). Expenses were incurred in a similar manner in 2001-2002.

The extent to which results are being achieved can be confirmed through periodic program evaluations. Evaluation studies were undertaken for the agreements with both the GNWT and the GY in 2003. In each instance, the report had not been finalized at the time the audit fieldwork was completed. PCH participated in the steering committee for both evaluations and reviewed the study terms of reference. As already noted in Section 5.2, a draft RMAF for the agreement with the GN has not been finalized or implemented so there is no independent verification of the information reported to date by the GN.

5.3.1 Recommendation

That the Director, Aboriginal Programs Directorate continue working closely with the Government of Nunavut to strengthen financial information and reporting of results.

5.3.1 Management Response

Recommendation accepted.

APD has taken measures to strengthen financial information and the report of results by, among others, holding payments until financial and activity information addresses requirements (completed).

5.3.2 Recommendation



That the Director, Aboriginal Programs Directorate consider undertaking, as per the agreement, a financial audit of the Government of Nunavut's accounts and records concerning Aboriginal language projects funded by Canada to determine if the funds were utilized for the intended purposes and to confirm the accuracy of the information reported.

5.3.2 Management Response

Recommendation accepted.

The APD has finalized its risk assessments for the 2004-05 fiscal year as per its recipient audit plan. It will consider an audit of the Government of Nunavut's language agreement concerning Aboriginal languages projects funded by Canada in its future accountability and risk assessment frameworks with the territories. The APD will also include the requirement for audits in its Risk-Based Audit Framework (RBAF) (second quarter of 2005-06 fiscal year).

All three territorial governments had difficulty meeting the reporting timelines as set out in their agreements. As shown in Table 1, none of the territorial governments have been able to meet the required timelines. The GY has been the most prompt by submitting its reports a month to a month and a half late. The GNWT has had the most difficulty. Its report for 2001-2002 was more than 13 months late. Some of this delay may be attributable to the change in reporting requirements that was implemented for that year. Final payments to the territorial governments for the next fiscal year were delayed pending receipt and acceptance of the final activity and financial reports.



Table 1: Date of Receipt of Final Activity and Financial Reports

	2001-2002	2002-2003
Northwest Territories ⁹	November 4, 2003	not received at time of audit fieldwork
Nunavut ⁹	January 28, 2003	not received at time of audit fieldwork
Yukon ¹⁰	December 2, 2002	December 19, 2003

5.4 Risk Management Strategies and Practices

Changes in government policy over the past five years have resulted in a much greater focus on risk management. The 2000 *Policy on Transfer Payments* requires that a Risk-based Audit Framework (RBAF) be developed and submitted at the same time approval is sought for new programs or upon renewal every five years.

While not specifically required by the agreement, a Risk-based Audit Framework (RBAF) was prepared in early 2002 on behalf of the GN using the Treasury Board Secretariat of Canada's framework. The document described the risks and mitigating controls from the perspective of the GN and assumed that the Government of Canada had minimal responsibility for the program other than providing a significant portion of the necessary funding. As such, it is insufficient to meet PCH's requirements.

Key risks that have been identified by PCH for these agreements include:

- the extent to which a third party will administer a contribution program in a manner consistent with the requirements of the TBS *Policy on Transfer Payments*. Several mechanisms are available to PCH to mitigate this risk. These include:

⁹Final activity and financial report is due by October 1st, six months after the end of the period funded.

¹⁰Final activity and financial report is due by October 31st, seven months after the end of the period funded.



- periodic evaluations which will provide information on the results being achieved. Evaluations were underway for the agreements with the GNWT and the GY at the time of the audit fieldwork;
- setting out in the agreement the territorial government's management control framework for administering the agreement as required by the TBS *Policy on Transfer Payments*. A recommendation in this regard has been made (Recommendation 5.2.2).
- conducting periodic audits of the agreements. The work itself could be conducted by internal auditors from the territorial government but have an audit steering committee with PCH representation. This requirement could be included in the agreement between Canada and the territorial government.

5.4.1 Recommendation

That the Director, Aboriginal Programs Directorate consider for inclusion in the next agreement with each territorial government for Aboriginal languages, an audit provision whereby the work could be conducted by the Territorial government's internal auditors but that PCH would be represented on an audit steering committee.

5.4.1 Management Response

Recommendation accepted

The APD will work with the territorial governments to consider for inclusion of the future agreements an audit provision whereby the work could be conducted by the Territorial government's internal auditors but that PCH would be represented on an audit steering committee (second quarter of 2005-06 fiscal year).

APD realizes that a more strategic approach is required for Aboriginal languages and that there has been a lack of coordination among language programs. Work is currently underway within APD to develop a coherent, overarching policy framework for all its Aboriginal programs while at the same time respecting Aboriginal jurisdiction over language and culture.



What happens through that process, coupled with recommended discussions with PCH Centre of Expertise Grants and Contributions, departmental Legal Services and TBS on the extent of control that can be exercised on a transfer payment to a territorial government, will drive the form of the risk management strategies that PCH should implement.



ANNEX A SPECIFIC AUDIT CRITERIA

The following are the specific audit criteria for each audit objective:

A. Management Control Frameworks and Management Practices

- The program complies with appropriate acts, regulations, terms and conditions, policies and appropriate agreements.
- The management control framework identifies the intended results, ensures that the results achieved are monitored and assessed on a regular basis, and supports sound management practices.
- Decisions concerning the approval of recipients and of projects respect the concepts of due diligence, namely a sound justification, a reasonable analysis and accountability.

B. Information for Decision-Making and Reporting

- The program reporting framework addresses the program's stated objective.
- Management reports and information contained in the recipient files are provided in a way that is conducive to their use in the program accountability and decision making-process.
- The program control framework addresses the management information requirements and expected attributes (verifiable, relevant, complete).

C. Risk Management Strategies and Practices

- The program's key risks are expressed and assessed in specific results-oriented terms related to client needs and program objectives and, are measured and evaluated on a regular basis.
- Appropriate strategic and operational plans are developed, applied, reviewed, and updated with suitable frequency.

D. Program Design and Implementation

- The program key activities and funding mechanism are delivered, measured and reported in a way that is relevant to the departmental objective.



ANNEX B: COMPARISON OF THE CANADA-TERRITORIAL LANGUAGE AGREEMENTS WITH THE ATTRIBUTES OF DIFFERENT TRANSFER PAYMENT ARRANGEMENTS

Key attributes	Alternative Funding Arrangements	Flexible Transfer Payments	Other Transfer Payments	Territorial Agreements
Entitlement to payment is based on formula.	YES – Formula is negotiated.	NO – Entitlement is based on program’s results and not on formula.	YES – Formula-based, where the applicant must meet pre-established conditions or specified eligibility criteria. Payment is subject to continuing eligibility.	The amount of funding is set out in the agreement with each Territorial government.. In the case of the territorial government, the amount of funding provided will be decreased as Program and Service Transfer Agreements are completed with individual Yukon First Nations.
Written agreement between recipient and the donor identifying the terms and conditions governing the payment is required.	YES – Funds may be reallocated between program areas and programs may be redesigned providing the recipient meets minimum program requirements.	YES – Conditional transfer payment requiring the recipient to account through performance reports that the agreed results have been achieved (i.e. minimum terms and conditions). Focus is on program results, not on accounting for actual expenditures.	NO – Only where there is a class of recipients are terms and conditions required to determine eligibility.	Written agreements exist between the Government of Canada and each territorial government. In each agreement, the Territorial governments are required to submit financial and activity reports.



Key attributes	Alternative Funding Arrangements	Flexible Transfer Payments	Other Transfer Payments	Territorial Agreements
Degree of flexibility built into an arrangement is a function of the level of potential risk associated with the third party's ability to deliver government's objective.	YES – More flexible than FTPs but not as flexible as OTPs. Under AFAs, the recipient is the “program manager” with decision-making authority, responsibility and accountability. Appropriate when the level of risk is judged to be low.	YES – More flexible than contribution arrangements but not as flexible as AFAs or OTPs. Programs may not be redesigned. Appropriate when the level of risk is judged to be medium.	YES – Most flexible of all. Entitlement to receive payment is regulated by legislation, regulations or arrangements. Providing eligibility criteria are met, there is no restriction on how the recipient reallocates the funds once the payment is made. Eligibility criteria provide sufficient assurance that objectives of the payment will be met.	Each agreement calls for an Agreement Management Committee to oversee the administration of the terms of the Agreement including review of planned activities.
Recipient of funds may redesign programs and reallocate funds.	YES – Objective is to allow the recipient to manage, not just administer, by providing authority to redesign programs in accordance with their community priorities.	NO – Specific program criteria identify the specific program objective.	YES – Once payment is made, recipient may reallocate the funds.	Limited flexibility is provided for reallocating funds between different program objectives.
Transfer of funds is conditional. The recipient must provide an accounting on how the funds were used.	YES – Emphasis is on designing programs in accordance with community priorities keeping in mind minimum program requirements. Annual management report	YES – Emphasis is on specific outputs for a fixed amount of dollars. The recipient must account through performance reports that the results have been achieved.	NO – Emphasis is on meeting pre-established conditions (where there is a class of recipients) or eligibility criteria. Payment is based on continuing eligibility. No	Annual financial reports must be provided.



Key attributes	Alternative Funding Arrangements	Flexible Transfer Payments	Other Transfer Payments	Territorial Agreements
	as well as audited financial statements are required.		additional control may be exercised over the types of expenditures for which payment is used.	
Agreement with recipient is multi-year. Funding, however, is provided on availability of annual appropriations.	YES – Possible to have agreements up to five years, subject to annual appropriation availability.	NO – Funding is for a single year.	YES – Payments may be under statutory authorities with funding disclosed annually by Parliament.	Multi-year agreements have been signed subject to annual appropriation availability.
Surplus funds can be spent at the discretion of the recipient.	YES – Formula-based. Recipient can redesign programs and reallocate funds between programs based on their priorities. Surpluses can be retained. The only restriction is that capital surplus must be spent for capital purposes.	YES – Emphasis is on program results (i.e. meeting specific performance targets) not accounting for actual expenditures. Any surplus or deficit is the responsibility of the recipient.	N/A – Formula-based. Issue of surplus funds does not arise.	Agreements do not address the use of surplus funds. The emphasis is on the need to be able to demonstrate that the financial assistance received has contributed to the attainment of the objectives set out in the agreement. “The year-end financial statements ...and the annual activity report ...will normally serve to demonstrate that the contribution of Canada is related to the costs incurred in fulfilling the purposes described in ...”



Key attributes	Alternative Funding Arrangements	Flexible Transfer Payments	Other Transfer Payments	Territorial Agreements
Audited financial statements a requirement.	YES – An annual audit is required.	YES – Provision for audit must be part of the agreement although it might not always be requested.	NO – Not subject to audit. However, verification of eligibility may be undertaken after payment has been made.	There is a provision for a financial audit of the books and records of the territorial government.