

REPORT ON
DUE DILIGENCE IN PROCESSING
OF
GRANTS AND CONTRIBUTIONS
BY
ABORIGINAL REPRESENTATIVE ORGANIZATIONS
PROGRAM

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For

The Corporate Review Branch
Canadian Heritage

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INTRODUCTION

During the past year there has been a heightened interest in the activities undertaken through Grant and Contribution (G&C) Programs in the Federal Government, the focus of the interest being in the diligence of management of funding arrangements. In this respect, on June 1, 2000 Treasury Board of Canada Secretariat (TB) issued a Policy on Transfer Payments outlining policy and procedures relating to management practices for the funding Programs.

In March 2000, Canadian Heritage (the Department) endorsed the then existing TB draft policy leading up to the June 2000 policy. In this respect the Corporate Review and Financial Management Branches prepared a “due diligence” workshop that was delivered at Headquarters and in the Regions during the Spring of 2000. The presentation outlined the TB principles along with additional principles that were deemed appropriate for the Department. The presentation was effectively the Department’s policy for the management of Grant and Contribution activities.

In light of the general increase in interest for G&C Program activity, most particularly from TB, and in accordance with the Corporate Review Branch’s Annual Plan for 2000–2001, a review has been completed to assess the diligence in processing of funding activities by the Aboriginal Representative Organizations Program (the Program).

BACKGROUND

The following definitions were included in TB’s June 1, 2000 Policy on Transfer Payments:

Contribution: is a conditional transfer payment to an individual or organization for a specified purpose pursuant to a contribution agreement that is subject to being accounted for and audited.

Grant: is a transfer payment made to an individual or organization which is not subject to being accounted for or audited but for which eligibility and entitlement may be verified or for which the recipient may need to meet pre-conditions.

The basic framework for G&C Programs is established through TB’s approval of Terms and Conditions (Ts&Cs). Following are some general types of clauses that have been prevalent in Ts&Cs (the list is not meant to be exhaustive):

1. Description of the class(es) of recipients that may be eligible for funding.
2. Description of the types of expenditures that will be eligible for funding.
3. The maximum amount of any individual funding arrangement. Amounts in excess require separate TB approval.
4. The method of payment ... advances, reimbursements or other.
5. Termination clauses.
6. The right of the “Minister” to conduct audits on the recipient’s accounts (contribution arrangements only).

During the course of a fiscal year, Programs enter into funding arrangements, generally through the following process:

1. Application/Proposal receipt and assessment resulting in approval of particular initiatives.
2. For Contributions, formalization of the arrangement through an Agreement signed by the recipient and the Department. The Agreement is to address pertinent data as contained in the Ts&Cs. In the case of Grants, the arrangement may be formalized in a letter outlining the responsibilities, if any, of the Recipient.
3. Monitoring of the initiative/project by program personnel, including receipt and review of interim reporting data from the recipient and the issuance of payments.
4. Completion/closure of the arrangement, including receipt and review of final reporting and issuance of final payments.

TB, in its Policy on Transfer Payments, has issued detailed directions that Programs are to follow with respect to Ts&Cs and funding activities.

The Program, in accordance with its Ts&Cs, approved by TB in April 1991, provides “core” or operational funding to Recipients directed toward salaries of executive and support staff, travel, meetings, office costs and professional services. The Program does not provide “project” funding.

SCOPE OF THE REVIEW

During the fiscal years 1999-2000 and 2000-2001 funding was provided or arrangements entered into as follows:

| | Grants | Contributions | Total |
|-----------|--------------------|----------------------|--------------------|
| 1999-2000 | <u>\$2,455,176</u> | <u>\$3,832,384</u> | <u>\$6,287,560</u> |
| 2000-2001 | <u>\$0</u> | <u>\$6,287,560</u> | <u>\$6,287,560</u> |

We were provided listings of recipients of funding for each of the two years. The lists were analyzed and a sample of 19 funding arrangements was selected for assessment, taking into consideration:

- the amount of individual arrangements, including both high and low dollar amounts;
- coverage from both fiscal years; and
- coverage for each funding arrangement type, i.e. grants and contributions.

A list of funding arrangements selected in our sample is attached as Appendix A.

AUDIT METHODOLOGY

The assignment was completed through:

1. Conduct of initial interviews. Interviews were conducted with Program personnel, the purposes being to:
 - a) gain an understanding of the Program; and
 - b) obtain copies of the current Ts&Cs.
2. Development of an Assessment Tool. An assessment tool/audit program was developed based on our knowledge of the federal government G&C environment, to an extent TB's current Policy on Transfer Payments and the current Ts&Cs for the Program. A copy of the Assessment Tool is attached as Appendix B.
3. Application of the Assessment Tool.
4. Review of results of the assessments. In a number of instances the results of the assessments indicated that opportunities for improvement existed. To ensure accuracy and correctness of the observations they were reviewed at three levels:
 - a) with the Program Officer;
 - b) with the Program Manager; and
 - c) with the Program Director.

The following observations and recommendations reflect the outcomes of reviews with the Program Officer, Manager and Director.

¹OBSERVATIONS AND RECOMMENDATIONS

Following are observations noted in completing the due diligence file assessments. In our opinion, with the exception of payments being made in instances where Recipients were not in compliance with obligations pursuant to Contribution Agreements, the matters noted are not "serious" in nature.

Compliance with Terms and Conditions

As stated in the Background section of the report the Program provides funding for core activities of the Recipient and does not provide support for specific project initiatives. In the following observations we will provide extracts from the April 1991 Ts&Cs and the reader will note reference to the term "project". Although there appears to be an inconsistency, we have concluded that the intent of the term project in the Ts&Cs was to mean activities of the Recipient.

¹ In the G&C funding process, an Applicant is in fact a potential Recipient up to the stage where a requested funding arrangement is approved. In this section we have only used the term Recipient as our assessments were performed on approved arrangements.

Documentation for Recipient eligibility

Clause 2.1 outlines eligible Recipients, such as:

- a group of Canadian citizens or permanent residents;
- non-profit organizations; and
- Status, Non-Status, Metis and Inuit organizations.

The files assessed did not contain documentation relating to the Recipient’s organizational background and consequently we were not able to confirm Recipient eligibility.

Recommendation

The Program create “permanent” files for each Recipient including all necessary organizational data. Recipients should be required to provide amended documentation as changes occur.

Objectives and outcomes

Clause 4.1 a) states that funding recommendations will be based on a number of factors including “project or activity objectives and description”. **In two instances the Recipient did not provide any details/description of activities that were planned to justify support of the requested funding.**

Clause 4.1 b) states that funding recommendations will be based on a number of factors including “project compatibility with program objectives, priorities and criteria”. Further, Clause 5.2 a) states that the applicant must “clearly state the objectives and goals of the proposed activities ... “. **Owing to the fact that that in many instances the Recipient did not state objectives we were not able to conclude if the funding activities met Program objectives.**

Clause 5.2 d) states the applicant must “indicate how it is proposed to measure the degree to which the objectives and/or goals of the activity have been fulfilled”. **In most instances the Recipient did not provide criteria against which outcomes could be measured to establish whether the funding arrangement had been successful.**

We understand that a Program Evaluation is currently underway and this initiative should assist the Program and Recipients in the establishment of objectives and measurable outcomes.

Recommendation

The Program ensure that:

- a) Proposals from Recipients contain clearly stated objectives and specific that are linked to the Program objectives and to a Performance Management Framework; and
- b) The Recipients’ objectives are linked to clearly measurable criteria for the Recipients use in demonstrating success of the funding, in the final report.

Declaration of sources of revenues

Clause 5.2 c) states the applicant must “provide a list of all sources from which financial assistance has been sought and the results obtained”. **In most instances Recipients submitted only cash flow expenditure data relating to the funding being requested from the Program.**

Recommendation

The Program ensure that Proposals from Recipients contain cash flow data for both the overall operation, including revenues from all sources and Program funding.

Eligibility of expenditures

Clause 5.4 states that eligible expenditures “include salaries (of the executive and support staff), travel, meetings, office costs, professional services (eg: auditors, and training).”. **We noted instances where Recipients included the following non-eligible expenses in the cash flow documentation included with Proposals for funding:**

- **Provisions for recovery of prior year deficits;**
- **Amortization of the organization’s assets; and**
- **Acquisition of computers.**

Recommendation

The Program ensure that planned expenditures by the Recipient are eligible in accordance with the Program Terms and Conditions.

Compliance with Contribution Agreements

Payments issued when Recipient reporting requirements not met

Contribution Agreements call for issuance of installment payments subject to the Recipient being in compliance with reporting requirements, by specified dates, such as:

- Interim activity reports;
- Interim financial reports;
- Final activity reports for the prior fiscal year;
- Deficit recovery plans; and
- Audited financial statements for the Recipient’s prior fiscal year.

In many instances we noted that Recipients had not met the necessary reporting requirements with respect to timing and we were pleased to note that the Program withheld ongoing installment payments in the majority of cases where Recipients were

tardy. However, we did note some instances where installment payments were issued when, in fact, the Recipients were not in compliance with their reporting requirements.

Recommendation

The Program implement a process that will ensure that payments are not issued to Recipients that have not met their reporting obligations stated in Contribution Agreements.

General Observations

Evidence of review of activity reports

The Department's policy calls for G&C Programs to demonstrate evidence that funding arrangement files contain evidence that Program personnel have conducted diligent reviews of materials submitted by Recipients. Evidence of review could take the form of notations on the report, memos to file and/or correspondence with the Recipient. **In 1999-2000 we noted that the Program implemented use of a "Reviewed By" as evidence of review. We believe it would have been more appropriate that files contain additional evidence of review.**

With respect to review of interim financial reports and annual audited financial statements we did note evidence of review in the form of memos from the Department's Financial Management Branch.

Recommendation

The Program ensure that reports and other materials supplied by Recipients are meaningfully reviewed and evidence of review is documented on file.

Repayment of funding surpluses

Clause 10.1 of the Ts&Cs addresses the matter of a Recipient's requirement to make repayments in instances where surpluses may exist. However, due to the fact that the wording is very ambiguous, we are not able to conclude under what instances there is a requirement for a Recipient to repay surplus funding.

The Program's practice is to include a clause in Contribution Agreements referring to "General Conditions – Contributions" that are attached as an appendix to the agreement. Clause 20 of the general conditions states "In the event that payments made to the Recipient under this Agreement exceed the amount thereof required or expended by the recipient in accordance with this Agreement, any such surplus is payable forthwith to the Minister."

In a number of instances we noted that surpluses were realized by Recipients and we conclude that an opportunity exists for clarification regarding the matter of repayments of surpluses.

Contribution Agreements call for Recipients to provide the Program with a copy of Management Letters when same have been issued by the Recipient's public accountant. **We noted one instance where a Management Letter indicated that it was the Recipient's practice to accrue expenditures to eliminate appearance of a surplus. There was no evidence in the file of follow-up on this matter.**

Recommendation

The Program address the issue surrounding repayment of surplus funding with the Department's Financial Management Branch and possibly Treasury Board and conduct future activities in accordance with the outcome.

Template for objectives and outcomes

In response to the principles of due diligence, in 2000-2001 the Program prepared and included in the Recommendation For Approval (RAF) forms funding objectives and outcomes. **The objectives and outcomes were the same/generic in nature for all funding arrangements without any form of "customization" that may have been unique to a particular Recipient.** While this was a good initiative by the Program to address the need to establish planned goals and measurement criteria, we believe it is more appropriate that organization specific objectives and outcomes should be provided by the Recipients in their Proposals, resulting in data that would be customized to planned activities of the Recipient.

Recommendation

The Program direct Recipients to provide measurable objectives and anticipated outcomes in their Proposals for funding.

Inappropriate clauses in Contribution Agreements

We noted instances where Contribution Agreements contained clauses that were not appropriate or pertinent to the circumstances, for example:

- Inclusion of a requirement for the Recipient to provide a Deficit Recovery Plan by a specified date, where in reality the Recipient had not been in a previous deficit position; and
- Inclusion of a requirement for the Recipient to provide a final activity report for the previous year where the prior year funding arrangement was in the form of a Grant where grant recipients are not required to provide final reports.

We believe careful scrutiny or review of proposed Contribution Agreements would have eliminated these occurrences.

Recommendation

The Program ensure that only pertinent Recipient requirement clauses are included in Contribution Agreements.

Audit of Recipient accounts

All Contribution Agreements contained a clause providing the Minister the right to “audit or cause to have audited the accounts and records of the Recipient to ensure compliance with the terms and obligations of the Agreement ... and if conducted may be carried out by employees of the Department or its agent(s).”

We are informed that it is the Program’s practice to rely on schedules documenting the use of the Program’s core funding that are included in Recipients’ audited financial statements for ensuring compliance with terms and obligations and as a result, specific audits are not undertaken on behalf of the Minister.

We believe it would be appropriate for the Program to either undertake audits on behalf of the Minister or require the Recipients public accountants to provide a form of attestation or report referring to the Contribution Agreement terms and obligations.

Recommendation

The Program undertake audits on behalf of the Minister to ensure Recipients’ compliance with the terms and obligations of the Agreement..

Comparison of funding with actual results

Contribution Agreements contained schedules outlining expenditures that were eligible for core funding and within the Agreements there were clauses that limited “transferability” between the categories.

In reference to the core funding schedules included with the Recipients’ audited financial statements, we did not find evidence that comparisons or reviews had been undertaken to ensure that actual expenditures were in accordance with the Contribution Agreements.

Recommendation

The Program complete reviews of Recipients’ final financial reports to ensure that actual expenditures were in accordance with the Contribution Agreements.

Payments to Recipients based on requirements

Clause 5.2 b) of the Ts&Cs states that Recipients are to provide a budget or forecast of expenditures “including costs and timetable;” **We noted that payments to Recipients were made on the basis of the timing pursuant to the submissions.**

With respect to “timetable” we noted that Recipients generally provided time allocation of expenditures that were divided equally throughout the year, i.e., total forecast expenditures divided by a factor of twelve and did not take into account what may have been a realistic timing of requirements.

Recommendation

The Program direct Recipients to provide cash flow documentation for Program funding based on actual timing for which funding is required.

Recipient response to Program requests

We noted many instances where there was a general lack of “responsiveness” on the part of Recipients, for example:

- The 1999-2000 call letter contained what we believe was good direction to the Recipients regarding development of objectives and measurable outcomes. As noted above, the Proposals were either silent on objectives and outcomes or weak in this regard;
- As previously noted, reports were frequently not provided within timeframes called for in the Contribution Agreements; and
- Specific requests by Program personnel were not answered.

The Contribution Agreements contained clauses whereby the Minister had the right to request information throughout the duration of the Agreement. Further, Clause 18 of the General Conditions – Contributions states “Should the Recipient fail to comply with any of the terms and conditions contained herein, the Minister may by giving written notice to the Recipient terminate, suspend or reduce the scope of his obligations under this Agreement.”.

We believe there would be an improvement in Recipients’ meeting their requirements if this issue of “responsiveness” was communicated with all Recipients and that the Program would consider exercising its rights of termination.

Recommendation

The Program communicate with Recipients indicating that it is essential that Recipients meet their reporting requirements in accordance with the obligations in the Contribution Agreements and that failure to do so may result in termination or suspension of the Agreements.

Timing for receipt of Proposals

Our review of the files indicated that some Recipients file Proposals for funding well into the fiscal year for which funding is being requested. In this respect, based on cash flow requirements, initial payments include what may be a significant retroactive amount.

In order to meet Recipients' funding requirements, it would be appropriate for the Program to set a deadline for receipt of Proposals that would provide necessary time for Program personnel to complete an assessment of the funding request.

Recommendation

The Program establish a deadline for receipt of Proposals for funding.

Annex A

Response to:

Report on Due Diligence in Processing of Grants and Contributions by Aboriginal Representative Organizations Program

Recommendation 1

The Program create “permanent” files for each recipient including all necessary organizational data. Recipients should be required to provide amended documentation as changes occur.

Response:

Permanent files which contain necessary organizational data are being created. The call letter specified what organizational data is required. While each organization is not required to submit all the data each year, they are requested to confirm that there have been no changes in the data over the past year.

Permanent files will be kept separate from the G&C file as they can be quite large, however, a reference will be made on the G&C file to the information on the permanent file. As some groups receive funding under more than one program this will avoid duplication of information.

Recommendation 2

The Program ensure that:

- a) Proposals from Recipients contain clearly stated objectives and specific that are linked to the Program objectives and to a Performance Management Framework; and*
- b) The Recipients’ objectives are linked to clearly measurable criteria for the Recipients use in demonstrating success of the funding, in the final report.*

Response:

The call letter identifies information to be included in the funding proposal. This includes information on the goals and objectives of the organization, planned activities, beneficiaries of these activities and the anticipated results and outcomes. Funding proposals will be assessed against the guidelines set out in the call letter.

A Performance Management Framework (PMF) has not been developed for AROP. The Program will be evaluated in the next year and a PMF will be addressed as part of the evaluation.

Recommendation 3

The Program ensure that Proposals from Recipients contain cash flow data for both the overall operation, including revenues from all sources and Program funding.

Response:

The call letter identifies the requirement for each organization to provide budget information including all anticipated revenues and expenditures. A cash flow, broken out on a monthly basis, was requested .

Recommendation 4

The Program ensure that planned expenditures by the Recipient are eligible in accordance with Program Terms and Conditions.

Response:

Planned expenditures will be closely assessed as to their eligibility under the Terms and Conditions. The audit indicated that acquisition of computers is not an eligible expense. Computers have been interpreted as falling under the category of office costs which are eligible expenses. There should be some room for discretion with appropriate justification(10 computers purchased at year end may not be reasonable, where one computer would be reasonable to meet office requirements). The program officer carries out the initial assessment and a challenge function is performed by Finance.

Recommendation 5

The Program implement a process that will ensure that payments are not issued to Recipients that have not met their reporting obligations stated in the Contribution Agreements.

Response:

A checklist is attached to each file outlining the requirements for each payment. Reporting obligations will be verified prior to processing payments. Each request for payment is now routed to the Manager, Aboriginal Peoples' Program prior to approval by the Director, Aboriginal Peoples' and Human Rights Programs.

Recommendation 6

The Program ensure that reports and other materials supplied by Recipients are meaningfully reviewed and evidence of review is on file.

Response:

Last year a stamp was developed by Finance which indicated that the material supplied by the Recipient had been reviewed and assessed. This year, notes by the Program officer, tabs, highlighting etc. will also be provided to reflect the review of the file.

Recommendation 7

The Program address the issue surrounding repayment of surplus funding with the Department's Financial Management Branch and possibly Treasury Board and conduct future activities in accordance with the outcome.

Response:

Aboriginal Peoples' Program will work with Financial Management in the process of renewing the T's & C's to clarify the ambiguous wording regarding repayment of surplus funding. In the interim, program officers will monitor the annual cash flow submitted by each organization to

ensure it is realistic. Any variations, including surpluses, must be fully justified by the organization.

Recommendation 8

The Program direct Recipients to provide measurable objectives and anticipated outcomes in their proposals for funding.

Response:

The call letter issued for proposals for 2001-2002 requested that organizations provide a plan outlining how they propose to carry out activities and evaluate its success in achieving stated objectives. Each proposal will be assessed against the program requirements and the unique elements of the proposal will be reflected in the analysis. It must be recognized that the program objectives for AROP are very general. The program will be evaluated over the next year and the Terms and Conditions will be revised. It is anticipated that the objectives and outcomes will be revised to provide better defined and measurable objectives and outcomes.

Recommendation 9

The Program ensure that only pertinent Recipient requirement clauses are included in the Contribution Agreement.

Response:

Templates for contribution agreements for AROP have been developed for 2001-2002 to reflect the changes required by the revised Treasury Board Policy on Transfer Payments. The templates will be revised to reflect the specific circumstances of each group. Careful scrutiny of agreements will take place to ensure agreements contain appropriate requirements.

Recommendation 10

The Program undertake audits on behalf of the Minister to ensure Recipients' compliance with the terms and conditions of the Agreement.

Response:

The Audit and Evaluation Plan for 2001-2002 includes 6 recipient audits for the Aboriginal Peoples' Program. At least one will be an AROP Recipient.

Recommendation 11

The Program complete reviews of the Recipients' final financial reports to ensure that actual expenditures were in accordance with the Contribution Agreements.

Response:

The review of Recipients' final financial reports will include a comparison that actual expenditures reflect the planned expenditures as stated in the Contribution Agreement. This analysis will take into account transfers allowed between categories. Evidence of this review will be included on the file.

Recommendation 12

The Program direct Recipients to provide cash flow documentation for Program funding based on actual timing for which funding is requested.

Response:

The call letter contains instructions on the submission of budget information. Organizations are requested to provide a monthly cash flow. The cash flow will be assessed to ensure that it reflects a realistic timing of activities and the payments reflect the activities.

Recommendation 13

The Program communicate with Recipients indicating that it is essential that Recipients meet their reporting requirements in accordance with the obligations in the Contribution Agreements and that failure to do so may result in termination or suspension of the Agreement.

Response:

Several changes have been made for 2001-2002 which should facilitate timely reporting by the organizations. In the past, reporting requirements did not always take the operational requirements of the organizations into account. For example, audited financial statements must be approved at the Recipient's Annual General Meeting which generally occur in late summer/early fall. These are now requested as part of the December payment. A checklist, indicating the requirements for each payment including due dates, will be sent out with the Contribution agreement (see attachment).

Recommendation 14

The Program establish a deadline for receipt of Proposals for funding.

Response:

The establishment of a deadline for receipt of proposals would not be appropriate for AROP. What would be the consequence of not meeting the deadline? AROP provides core funding to organizations which permits them to maintain a basic organizational capacity on an ongoing basis. It would not be appropriate to cut this funding without significant notice.

Establishing a deadline for AROP would imply that PCH would guarantee funding by a specified date. It is not possible to control the timing of approvals within the Department. It would be more appropriate to encourage early submission of proposals to facilitate early processing and approvals. PCH is looking into more efficient and effective ways to provide funding in a timely fashion.