

# FINANCIAL REPORTING BY FIRST NATIONS

Financial  
Reporting  
by First Nations

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# Foreword

There are currently 615 First Nations communities<sup>1</sup> in Canada comprising more than 50 nations or cultural groups as well as more than 50 languages.<sup>2</sup> The relationship these communities have with Canada has evolved over hundreds of years and continues to evolve today. Prior to European settlement, First Nations were self-sufficient, self-governing peoples. With settlement, came co-operation on a nation-to-nation basis. But, once the settlers out-numbered the Aboriginal peoples, assimilation became the goal and First Nations became dependent wards of the federal government. In this current era, First Nations are once again developing economically and implementing self-government.

The relationship between First Nations and Canada is special and unique. It is land-based and defined generally by the *Indian Act* or by federal acts for specific self-governing First Nations.

First Nations receive significant transfer payments from the federal government to enable them to provide province-like services. Also, since 1988, First Nations have had the ability to raise their own tax revenue.<sup>3</sup> Such taxation provides revenue streams to many First Nations communities. As well, most First Nations governments are engaged in economic development activities that generate own-source revenue. Such activities often require accessing external sources of capital and may involve agreements with other levels of government and private sector entities.

Accountability for these revenue streams is critical for members of the First Nation and other levels of government. Other financial statement users, such as capital providers and business partners, also look for accountability. Accountability demands credible financial reporting based on standards and guidance to ensure relevance, reliability, comparability and understandability. Credible financial reporting not only meets the requirements of accountability, but also improves First Nations access to capital and lowers the cost of that capital.

Financial reporting is credible when it is based on independently set accounting standards. The *CICA Public Sector Accounting (PSA) Handbook* provides Generally Accepted Accounting Principles (GAAP) for public sector entities in Canada that range in size from the federal government to the smallest municipality. Although the introduction to the *PSA Handbook* indicates that these accounting standards apply to all levels of government, there is no explicit reference to First Nations. First Nations governments are not included in any *Handbook* definition of “public sector” or “government” and, as a result, the *Handbook* does not explicitly mention financial reporting by First Nations.

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1 Because bands may be amalgamated or split, the total number of bands can change from year to year. A listing of First Nations in Canada can be obtained from the Indian and Northern Affairs Canada First Nation Profiles website [http://sdiprod2.inac.gc.ca/FNProfiles/FNProfiles\\_home.htm](http://sdiprod2.inac.gc.ca/FNProfiles/FNProfiles_home.htm).

2 Indian and Northern Affairs Canada, *Report on Plans and Priorities 2007-08 Estimates*, [http://www.tbs-sct.gc.ca/rpp/0708/INAC-AINC/INAC-AINC\\_e.asp](http://www.tbs-sct.gc.ca/rpp/0708/INAC-AINC/INAC-AINC_e.asp) (accessed May 21, 2007), p. 9.

3 This was the result of a 1988 First Nation-led amendment to the *Indian Act*.



As a condition of its funding agreements, Indian and Northern Affairs Canada (INAC) requires First Nations to follow existing local government accounting standards that are now being withdrawn from the *PSA Handbook*. Other users either have to rely on the financial statements provided to the federal government or stipulate their own requirements. Therefore, there is an important need to address the void in accounting standards for First Nations governments.

Accordingly, the Public Sector Accounting Board (PSAB) established a Study Group to make recommendations for financial reporting by First Nations. PSAB set out a mandate, asking the Study Group to address several key issues:

- the changing environment for First Nations financial reporting;
- summary of present practices;
- the difference between general purpose and special purpose financial statements and the relationship of these to the needs of stakeholders;
- users and needs of users;
- objectives of First Nations general purpose financial statements; and
- the reporting entity.

This report is the result of the Study Group's deliberations on financial reporting by First Nations. The Study Group consisted of volunteers with the necessary experience and professional qualifications to guide the development of the report. Study Group members were recruited to serve as individuals, not as representatives of their respective organizations. This allowed for a full and open debate on all issues. As First Nations representation was essential to this project, the Study Group included four First Nations accountants as well as a First Nations lawyer.

Associate professor Nola Buhr of the University of Saskatchewan assisted in the project, developing several drafts for consideration by the Study Group. Sandra Waterson of the CICA and Caroline Davis of INAC provided technical support. The final document and its conclusions, however, arise solely from the decisions of voting members of the Study Group.

It should be noted this report does not promulgate accounting standards as it is being published independently of the CICA's standard-setting boards. This report represents only the individual opinions of the voting members of the Study Group and, therefore, is known as the *Report of the Financial Reporting by First Nations Study Group*. Study Group reports may, however, serve as background material for subsequent standard-setting projects and, in the past, certain reports and studies have been instrumental in the development of accounting standards for the Public Sector.

CICA Study Group reports do not follow the same due process used in accounting standard setting. But, given the need for awareness of this project and to better understand financial reporting issues faced by the First Nations community, the Study Group did look for public input, especially from First Nations. Input took place in two key stages. First, in six Regional Focus Group Meetings, organized by the Aboriginal Financial Officers Association of Canada (AFOA) and its chapters, selected invitees were asked to provide direction to the Study Group in forming its recommendations. Second, a draft of this report was circulated to more than 100 Project Associates who were asked to comment on the document.

The CICA expresses its appreciation to the Chair and members of the Study Group for undertaking this project.

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*Foreword*

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As well, we thank everyone who assisted the Study Group by providing comments and input at various stages of the project, and the Aboriginal Financial Officers Association for its role in assisting with feedback on the project. Special acknowledgement is given to INAC for providing the funding for this project.

June 2008  
Toronto

Tim Beauchamp, CMA  
Director, Public Sector Accounting

# Chapter 1 – Introduction

*Need for Report – Accountability and Accountability Reporting – Scope of Report – Outline of Report – Approach of the Study Group – Summary*

## NEED FOR REPORT

First Nations communities play a significant role in the Canadian economy. First Nations receive substantial funding from the federal government for programming on-reserve, such as social services, education, healthcare, infrastructure and housing that would, in other communities, be delivered by provincial, territorial or municipal governments. For example, Indian and Northern Affairs Canada (INAC) transfers about \$5.5 billion annually to some 1,200 entities, including about 640 First Nations and Aboriginal organizations such as tribal councils.<sup>1</sup> A number of other government departments, such as Health Canada and Canada Mortgage and Housing Corporation, also provide program funding.

For some First Nations, taxation provides significant revenue streams. More than 100 First Nations levy property taxes on-reserve and, in 2005-2006, that tax revenue exceeded \$46 million.<sup>2</sup> As well, most First Nations governments are engaged in economic development activities that generate increasing amounts of own-source revenue.<sup>3</sup> They have established businesses that range from gas bars and grocery stores to mining and forestry ventures to wineries and golf courses. These enterprises often require external sources of capital and may necessitate agreements with provincial, territorial and municipal governments.

As with all other governments, First Nations governments must be accountable for the acquisition and use of their revenue streams. This accountability is owed to various constituents: their own members, whether they live on-reserve or off-reserve; various levels of government; capital providers; and business partners. Being accountable necessitates credible financial reporting. Credible financial reporting depends on high-quality accounting standards to ensure that information is relevant and reliable; is comparable over time and with that of similar entities; and is understood by users.

Currently, accounting standards for governments in Canada do not explicitly include First Nations governments. The Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA) is responsible for setting public sector GAAP for all levels of government in Canada. These accounting standards and related guidance are spelled out in the *Public Sector Accounting (PSA) Handbook*. In defining “public sector” and “government,” however, the *Handbook* does not explicitly mention First Nations or First Nations governments.

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1 Indian and Northern Affairs Canada, *Report on Plans and Priorities 2007-08 Estimates*, [http://www.tbs-sct.gc.ca/rpp/0708/INAC-AINC/INAC-AINC\\_e.asp](http://www.tbs-sct.gc.ca/rpp/0708/INAC-AINC/INAC-AINC_e.asp) (accessed May 21, 2007), p. 9.

2 First Nations Tax Commission, *Frequently Asked Questions*, <http://www.fntc.ca/faq.phtml> (accessed November 19, 2006).

3 The scope and nature of First Nations governments is addressed in Chapter 3.

INAC, along with other federal government departments, provides significant funding to First Nations and, therefore, is one of the key parties to First Nations accountability relationships. Funding to First Nations operating under the *Indian Act* (that is, First Nations who have not signed self-government agreements) is provided in the form of Comprehensive Funding Arrangements and Canada/First Nations Funding Agreements. These funding mechanisms not only include requirements for reporting to the government and members of the First Nation, but also include provisions for intervention. INAC and the other federal government departments review the First Nations reports to identify whether funds were used for the purpose intended and whether programs and services were delivered in accordance with the terms and conditions of the funding arrangements.

To obtain the information the funding agreements call for, INAC has set out its financial reporting expectations in a document known as the *Year-end Reporting Handbook*. This *Handbook*, dated November 2003, instructs First Nations operating under the *Indian Act* to follow public sector GAAP as specified by the *PSA Handbook* for local governments. Although the *Year-end Reporting Handbook* also requires special purpose information from First Nations, it fails to properly distinguish GAAP-based financial statements from special purpose information and makes some stipulations for financial statement presentation that are not necessarily required by GAAP.

INAC and any other parties making contractual agreements with First Nations may also request special purpose information, which would usually be provided in addition to the general purpose financial statements. Although individual users can ask for special purpose information, it is not efficient or effective for them to also stipulate the content of the general purpose financial statements that really need to meet the needs of a variety of users. Such an *ad hoc* approach would produce inconsistent financial statements, creating confusion and a lack of comparability.

Therefore, it is important to address this void in accounting standards for First Nations. This report examines the void by looking at: the changing environment for First Nations financial reporting; the needs of users; objectives of First Nations financial statements; and how financial reporting by First Nations compares with that of other public sector organizations. Adherence to GAAP is critical for ensuring the credibility of financial reporting by First Nations. Credible financial reporting will not only serve the requirements of accountability relationships, but it will also improve First Nations access to capital and lower the cost of that capital.

## ACCOUNTABILITY AND ACCOUNTABILITY REPORTING

The Study Group believes that accountability is the fundamental motivation for financial reporting and that concepts related to accountability had to guide this report. The Study Group chose to use the definition of accountability provided by the Office of the Auditor General of Canada.<sup>4</sup>

Accountability is a relationship based on obligations to demonstrate, review, and take responsibility for performance, both the results achieved in light of agreed expectations and the means used.

This definition of accountability was established in the context of public management and governance and focuses on holding ministers and managers of public pro-

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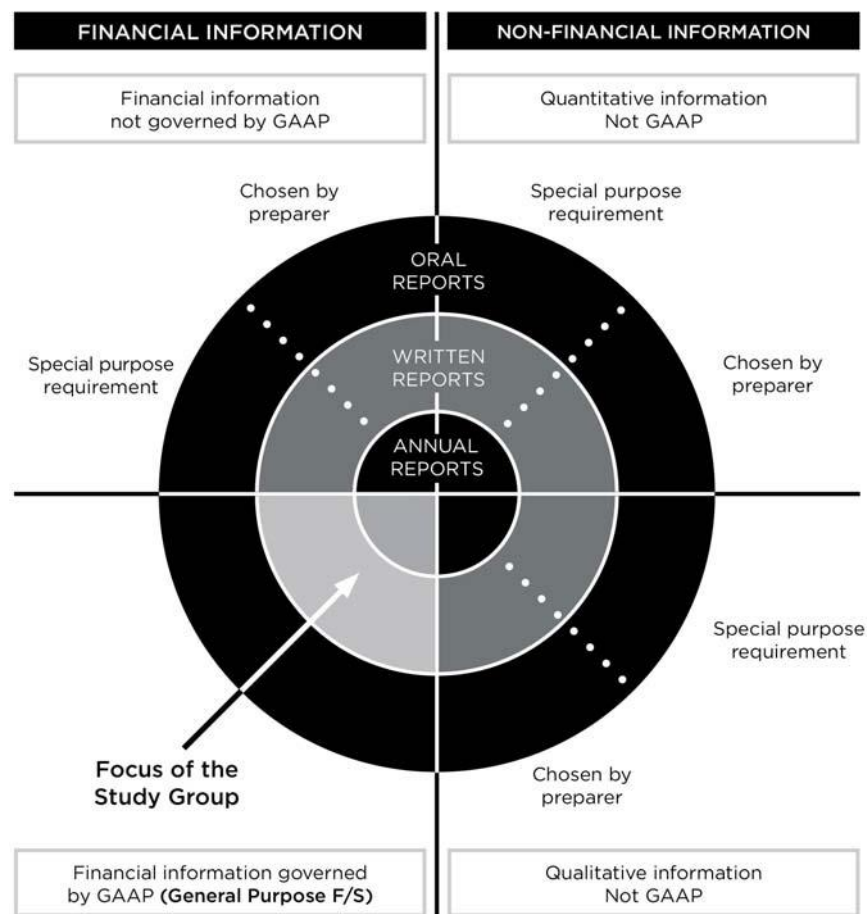
4 December 2002 Report, Chapter 9 (Ottawa: Office of the Auditor General of Canada, 2002), p. 1.

grams to account. This definition also applies to the various relationships between First Nations and others. Some of these relationships were established by birthright; some evolved over centuries of history; and some are contractual and legal. The nature of accountability and financial reporting depends on the relationship. Three key relationships relevant to this report are:

- (1) relationships between First Nations and their members;
- (2) relationships between First Nations and other levels of government; and
- (3) relationships between First Nations and capital providers.

Exhibit 1 - Performance Reporting Model lays out the full scope of reporting for accountability purposes. Such reporting is known as accountability reporting or performance reporting. The exhibit indicates the types of information that accountability reports can contain, as well how they can be delivered.<sup>5</sup> The Study Group’s mandate is limited to financial reporting, specifically the type of financial reporting covered by GAAP. The lower left quadrant of the exhibit shows the extent of reporting covered by this report.

**Exhibit 1— Performance Reporting Model**



<sup>5</sup> Although this exhibit is provided in the context of financial reporting by First Nations, its basic characteristics apply to accountability reporting by all organizations.

Reporting usually takes a written form but, in a community setting, oral reporting can also be effective, for example, by giving speeches at a general assembly<sup>6</sup> or delivering reports on a community radio station.<sup>7</sup> When orally reporting on financial statements, it is essential to accurately reflect what those financial statements contain.

When organizations issue written forms of reporting, the annual report is typically the reporting centerpiece. The annual report should include the financial statements and notes to the financial statements, as well as a variety of other information.

The type of information accountability reporting provides is both financial and non-financial in nature. Financial information includes the financial statements and notes to the financial statements as governed by GAAP. Financial information not governed by GAAP can also be provided.

Non-financial information can be quantitative or qualitative. Ideally, non-financial reporting focuses on the government's strategic plan, what was achieved with the resources used and whether or not the plan was met. Several sources offer guidance on non-financial reporting as part of performance reporting. PSAB developed a Statement of Recommended Practice (SORP) in this area, and First Nations seeking guidance on performance reporting should refer to SORP-2 "Public Performance Reporting." This SORP addresses the non-financial performance information of a public performance report, as well as the linkage of financial and non-financial information. It should be noted that SORPs are not mandatory and they do not form part of GAAP. Instead, they offer general guidance on effective reporting. A guide related to this SORP, *Public Performance Reporting: Guide to Preparing Public Performance Reports*, is available on the PSAB website at [http://www.psab-ccsp.ca/inex.cfm/ci\\_id/18656/la\\_id/1.htm](http://www.psab-ccsp.ca/inex.cfm/ci_id/18656/la_id/1.htm).

PSAB SORP-1 "Financial Statement Discussion & Analysis," provides guidance on the preparation and presentation of financial statement discussion and analysis (FSD&A) in an annual report. The main objective of the FSD&A is to clearly explain and highlight information in the statements of financial position and changes in financial position.

Exhibit 1 shows three quadrants that are not currently governed by GAAP and, therefore, are outside the scope of this report: (1) certain financial information; (2) quantitative non-financial information; and (3) qualitative non-financial information. These quadrants have each been split into two parts: (i) special purpose requirement; and (ii) chosen by preparer. Special purpose requirements are customized based on the needs of users in a specific accountability relationship. GAAP cannot prescribe the full range of special purpose information suitable for all types of accountability relationships. Information chosen by the preparer is just that, voluntary information the preparer decides to provide. It should be noted that the proportions of the exhibit are not meant to imply the extent of reporting in each area.

## SCOPE OF REPORT

Alternative means of reporting and a full range of information are crucial to a robust accountability. This report focuses, however, only on GAAP-based financial reporting limited to general purpose financial statements. General purpose financial statements are summary statements for an entity as a whole. They are designed for a range of external users who do not have direct and free access to all of an entity's

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6 G. Cosco, *Accountability in a Contemporary First Nation Context: A Blending of Forms*, Unpublished PhD thesis (Edmonton: University of Alberta), 2005.

7 Auditor General, *December 2002 Report*, Chapter 1, p. 10.

financial performance information. General purpose financial statements should, as much as possible, serve the needs of a broad range of users and, in so doing, enable First Nations to maintain their various accountability relationships.

Although general purpose financial reporting will go a long way toward meeting the needs of most users, it cannot satisfy all information needs of all users. Many First Nations accountability relationships will dictate the provision of special purpose information. GAAP cannot prescribe such information. Instead, it is up to the parties in each relationship to determine what special information they require beyond the general purpose financial statements. This report, therefore, will not recommend what reporting will meet the special purpose information needs of INAC or any other user.

Under the *Indian Act*, First Nations are constituted as communities, known as bands, and are governed by a chief and band council who are accountable to the members of the band. In recent years, certain First Nations have negotiated specific self-government agreements, which are implemented through federal and provincial or territorial government legislation. These agreements recognize the inherent right of self-government and remove those First Nations from the jurisdiction of the *Indian Act*. This report addresses both types of First Nation governments and their specific financial reporting needs.

In addition, this report applies to tribal councils and First Nation political organizations, such as provincial/territorial organizations or treaty organizations, when these entities operate as governments.

Other Aboriginal groups have also recently negotiated self-government agreements. Therefore, the recommendations of this report may, in some cases, also apply to Métis and Inuit. For example, the Labrador Inuit, along with the Government of Canada and the Government of Newfoundland and Labrador, created the Nunatsiavut Government, which provides a new governing structure for the Labrador Inuit and Labrador Inuit lands. The Study Group believes that the recommendations in this report would also apply to self-governing Aboriginal groups such as the Nunatsiavut Government.

This report is not, however, pan-Aboriginal. It does not address all financial reporting issues relating to Métis and Inuit peoples. Even though the Aboriginal peoples of Canada (Indian, Métis and Inuit) have a shared history,<sup>8</sup> there are differences in this history that have resulted in different relationships with Canada. In some cases, Aboriginal peoples have established a public government instead of a self-government agreement. For example, the Inuit have established the territory of Nunavut with a public government. All residents of Nunavut are entitled to run for office and elect Members of the Legislative Assembly.<sup>9</sup> The Nunavut government is included in the current definition of government in the *PSA Handbook* and, therefore, is already directed to follow established GAAP for financial reporting by provincial, territorial and federal governments in Canada.

As noted earlier, the recommendations in this report are the recommendations of the Study Group – they are not GAAP. Standard setting to establish GAAP requires following due process, which involves getting stakeholder feedback at several stages throughout the development of any standard. This process may take several years, but results in standards that meet the accountability and decision-making needs of the stakeholders who prepare and use financial statements.

<sup>8</sup> Some of this shared history is reflected in Chapter 2 of this report.

<sup>9</sup> Government of Nunavut, *Consensus Government*, <http://www.gov.nu.ca/Nunavut/English/about/cg.pdf> (accessed January 5, 2007).



This report does not have the status of GAAP. Primary sources of public sector GAAP are the standards and guidelines in the *PSA Handbook*. When these primary sources do not deal with certain accounting or reporting issues, an entity must use professional judgment and seek guidance from other sources. These other sources – such as the *CICA Handbook – Accounting* and CICA Research Reports and Studies – must be consistent with GAAP and the financial statement concepts outlined in the *PSA Handbook*.

## OUTLINE OF REPORT

The practice of financial reporting is not constant over time. Rather, it develops and adapts as social, political and economic circumstances change. To understand what financial reporting is appropriate for First Nations, it is important to understand their current social, political and economic environment. This current environment for First Nations, their land base and their governance structures, cannot be appreciated without an understanding of the history that has established the relationship First Nations have with Canada. Chapter 2 of this report provides an overview of this history and identifies numerous historical documents, such as treaties and acts, that have served to describe, shape and change the life and circumstances of First Nations peoples.

Chapter 3 then describes how this history has shaped the current social, political and economic circumstances of First Nations. This includes modern treaties and acts relevant to self-government and economic development. But, because First Nations are not a homogenous group, this chapter can provide only an indication of the range of diversity of circumstances that First Nations experience today.

Accountability, users, general purpose and special purpose reporting are the topics addressed in Chapter 4. It describes the concept of accountability, as well as the accountability relationships of First Nations, to identify the users of First Nations financial reporting and what their financial information needs are. This chapter also looks at the role of general purpose financial statements.

Chapter 5 covers the state of current financial reporting practice. This includes reporting by First Nations as well as other levels of government in Canada. Self-governing First Nations are typically directed by their self-government legislation to follow GAAP for governments. Current practice for *Indian Act* First Nations is a result of responding to INAC reporting needs, which are described in INAC's *Year-end Reporting Handbook*. *The Year-end Reporting Handbook* requires First Nations to follow the local government reporting model outlined in the *PSA Handbook* and to that adds some stipulations for financial statement presentation that are not necessarily required by GAAP. Chapter 5 notes that the local government model has undergone major changes and, effective with fiscal years beginning on or after January 1, 2009, the reporting model for local governments will be the same as that for senior governments (provincial, territorial and federal governments). There will be only one financial reporting model for governments in the *PSA Handbook*. This report will refer to that model as the common government reporting model.

Chapter 5 also outlines a number of financial reporting alternatives considered by the Study Group. Based on its analysis of these GAAP and non-GAAP alternatives, the Study Group concluded that GAAP for governments was the best alternative for First Nations. The Study Group felt strongly that First Nations are governments as their leaders are selected by their members and they operate as governments, with the well-being of their members as their first and foremost objective.

To test this initial impression, the Study Group undertook an in-depth approach to determining the applicability of the common government reporting model for First Nations. Chapter 6 examines user information needs and general purpose financial statements as described in *CICA PSA Handbook* Section PS 1000, “Financial Statement Concepts.” As well, the characteristics of governments described in *CICA PSA Handbook* Section PS 1100.A, “Financial Statement Objectives, Appendix A – Unique Characteristics of Government,” are compared with the characteristics of First Nations governments. Next, *CICA PSA Handbook* Section PS 1100, “Financial Statement Objectives,” and PS 1200, “Financial Statement Presentation,” are examined. An overview of the four financial statements required by the common model and the five key messages contained in these statements conclude the chapter.

Chapter 7 examines the nature and extent of the reporting entity as described in *CICA PSA Handbook* Section PS 1300, “Government Reporting Entity.” The boundaries of the reporting entity determine the boundaries for the information that is to be captured by the general purpose financial statements. Chapter 7 also looks at consolidation issues related to the concept of reporting entity, as well as the applicability of the *PSA Handbook* for First Nations.

In Chapter 8, the Study Group provides recommendations for financial reporting by First Nations, based on their history, current environment, accountability relationships and the financial reporting standards for other governments in Canada. As well, the chapter discusses the implications of the Study Group’s recommendations.

## **APPROACH OF THE STUDY GROUP**

Reports produced by CICA Study Groups are not GAAP. They are usually published without stakeholders input. Nevertheless, the Study Group felt that there was a need for public awareness of this project, as well as a need to better understand the financial reporting issues faced by First Nations communities. The Study Group held Regional Focus Group meetings throughout Canada mid-way through the project and enlisted feedback on a complete draft of this report. See Appendix A for more details on all of the outreach activities.

Regional Focus Group meetings, organized through the Aboriginal Financial Officers Association of Canada (AFOA) and its chapters, were held in six different locations in Canada. Focus Group members included AFOA chapter representatives, preparers, auditors and representatives from INAC. These individuals were given overview material on this report and were invited to discuss the material in a one-day meeting. The Study Group reviewed the feedback received from these Regional Focus Group meetings and incorporated it into this report as appropriate. The Study Group tried to capture a consensus view that reflected the comments of the majority of the participants at the Regional Focus Group meetings.

A complete draft of this report was sent to more than 100 Project Associates for comment. Project Associates included everyone who was invited to the Regional Focus Group meetings, as well as other interested individuals drawn from a range of stakeholder groups. Project Associates were asked to read the draft report and provide written comments. As well, the draft report was posted on the AFOA Canada website with a request for comments. Again, the Study Group reviewed the feedback received on the draft report and incorporated it into this final version of the report as appropriate. As with the feedback received at the Regional Focus Group meetings, the Study Group tried to capture a consensus view that reflected the comments of the majority of responses to the draft report. Because of divergent views expressed in the Regional

Focus Group meetings and in the responses to the draft report, it was not possible for the Study Group to agree with and incorporate all feedback fully and still come to a logically consistent conclusion. Also, when incorporating feedback from the Regional Focus Group meetings and circulation of the draft report, the Study Group had to keep its mandate in mind and deal with the comments accordingly.

## **SUMMARY**

This chapter provides an introduction to *Report of the Financial Reporting by First Nations Study Group*. The Study Group reviewed the history and current circumstances of First Nations, current accounting practice, accountability relationships and users with the aim of recommending appropriate financial reporting practices for First Nations. The recommendations made in this report are for First Nations general purpose financial reporting that should meet many of the information needs of a range of users.

# Chapter 2 – History of First Nations

*Special Relationship with Canada – Historic Treaties and Acts: “Contact and Co-operation” – Historic Treaties and Acts: “Displacement and Assimilation” – Summary*

## SPECIAL RELATIONSHIP WITH CANADA

This chapter identifies the key treaties and acts that have served to describe, shape and change the life and circumstances of First Nations peoples over hundreds of years. Obviously, it is not possible to do justice to such a time frame within the space of one chapter. Therefore, the description here will be necessarily brief and simplistic.

To recommend financial reporting practices for First Nations, it is first necessary to understand their accountability relationships and their current social, political and economic environment which, in turn, cannot be understood without some background in their history. This history has resulted in a relationship between First Nations and Canada that the courts consider to be *sui generis*, meaning special and unique.<sup>1</sup>

The *Report of the Royal Commission on Aboriginal Peoples* (RCAP)<sup>2</sup> identifies four stages in the history of Aboriginal peoples<sup>3</sup> in Canada:

- The first stage, “Separate Worlds,” is the period before 1500 when Aboriginal and non-Aboriginal societies developed in isolation from each other, separated by the Atlantic Ocean.
- The second stage, “Contact and Co-operation,” describes European settlement in what is now North America. Aboriginal peoples assisted the newcomers in surviving in their new environment and certain trading and military alliances were established. At this stage, each society was regarded as distinct and autonomous.
- The third stage is one of “Displacement and Assimilation.” Immigrant society grew in numbers and began taking various forms of intervention in Indigenous society. This included: taking surrenders of traditional Aboriginal territory; creating reserves and relocating Aboriginal peoples; disenfranchising Aboriginal peoples; taking Aboriginal children from their families and forcing them into residential schools; and outlawing Aboriginal cultural practices. This stage concluded with the federal government’s 1969 White Paper, which sought to end the constitutional, legal and political status of Aboriginal peoples.

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1 2006 Status Report, Chapter 5 (Ottawa: Office of the Auditor General of Canada, 2006), p. 148.

2 Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1 (Ottawa: Minister of Supply and Services Canada, 1996), pp. 37-40.

3 The term Aboriginal peoples refers to First Nations, Métis and Inuit.

- The fourth stage is described as “Negotiation and Renewal.” Boldt writes that the reaction to the 1969 White Paper developed into a national Aboriginal political movement that “brought to an end a century during which the Canadian government successfully fragmented Indians into hundreds of isolated communities.”<sup>4</sup> This reaction, coupled with court decisions, sympathetic public opinion and international mobilization of Indigenous peoples, led to non-Aboriginal society admitting the failure of the interventionist and assimilationist approach. From this realization arose dialogue, consultation and negotiation that remain current and ongoing.

This chapter will cover some of the history of the second and third stages of the relationship between First Nations and Canada. Chapter 3 will address the fourth stage, which includes a description of the evolving relationship between First Nations and Canada, as well as the current social, political and economic environment of First Nations.

First Nations governance and economic independence and, therefore, accountability relationships have changed throughout the four stages described by the Royal Commission on Aboriginal Peoples. In the first stage, there was sole governance and economic independence. Accountability relationships were limited to the members of the First Nation. Maintaining leadership and governance was based on that accountability. The second stage witnessed government-to-government co-operation and economic co-dependence. First Nations leaders would have been accountable to their members for their decisions but the extent of co-operation and co-dependence with the European traders and settlers meant that First Nations governments were also accountable to their military and economic partners. By the third stage, First Nations had near powerless governance structures and were economically dependant on the government of Canada. As a result First Nations chiefs and band councils became accountable, almost solely, to the Indian Agent and the federal government.

## **HISTORIC TREATIES AND ACTS: “CONTACT AND CO-OPERATION”**

Miller describes Aboriginal self-government prior to contact with settlers.<sup>5</sup> For example, when Europeans reached the eastern shores of North America in the sixteenth and seventeenth centuries, the Mi’kmaq occupied an extensive territory and had a system of government “that looked strikingly like federalism.”<sup>6</sup> Their communities were organized into seven districts, each with its own governing council composed of a district chief, elders and village chiefs. In addition, there was a Grand Council made up of the seven district chiefs.<sup>7</sup> This extended Mi’kmaq government was also part of a regional grouping known as the Wabanaki Confederacy. The Mi’kmaq were not alone in utilizing such systems of governance. South of Lake Ontario, the Iroquois developed the Iroquois Confederacy, also known as the Five Nations. “Simply put, the Iroquois developed complex and sophisticated institutions of government because their social circumstances required that they have mechanisms for regulating

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4 M. Boldt, *Surviving as Indians: The Challenge of Self-Government* (Toronto: University of Toronto Press, 1993), p.85.

5 J.R. Miller, *Lethal Legacy: Current Native Controversies in Canada* (Toronto: Macfarlane Walter & Ross, 2004), pp. 55-67.

6 Miller, *Lethal Legacy*, p. 55.

7 Miller, *Lethal Legacy*, p. 56.

relations among large numbers of people normally resident in one location.”<sup>8</sup> Another example is the Blackfoot Confederacy in southern Alberta.<sup>9</sup>

Miller goes on to point out that these systems of governance resulted in strong accountability relationships between various chiefs and councils and the members of the First Nations. The newcomers did not interfere with these systems of governance because they needed the military alliances with First Nations, as well as the trading relationships and the assistance they got from First Nations with their expert knowledge of hunting and fishing.<sup>10</sup>

Treaties, pacts and agreements between First Nations and European traders and settlers were initiated during the early days of contact on a nation-to-nation basis (Miller).<sup>11</sup> RCAP (1996) describes how, at the outset, these negotiations were undertaken for commercial purposes (for example those initiated by the Hudson’s Bay Company) as well as to gain military and political alliances (for example the French alliances with the Innu, Algonquin and Wendat).<sup>12</sup> These treaties, referred to as “Peace and Friendship” treaties (Frideres and Gadacz; Miller),<sup>13, 14</sup> are still acknowledged today. For example, the Supreme Court of Canada referred to the series of treaties between the British Crown and the Mi’kmaq, negotiated in 1760 and 1761, in the Marshall decisions in 1999.

As the extent of military and economic alliances increased, First Nations would become not only accountable to their members, but also to their military and commercial partners. Although political accountability has been and remains a key facet of the accountability relationship between First Nations and their members, economic accountability would have become critical in the commercial alliances.

The early treaties were local and regional in nature. Long before Canada was established as a country, however, the *Royal Proclamation of 1763* set out to re-affirm and solidify the relationship between Great Britain and all of the First Nations. The proclamation was necessitated by France ceding its North America territories to the British in 1763. First Nations allied with the French had been at war with Britain and no longer had an ally. As well, the First Nations that were allied with the British were growing increasingly dissatisfied over incursions by American colonists on their lands. The *Royal Proclamation* was created to assure both groups of First Nations of the good intentions of the British government (RCAP).<sup>15</sup> Miller discusses how the *Royal Proclamation* also served to regulate lands in the interior in order “to avoid conflict between the indigenous population and land-hungry immigrants.”<sup>16</sup>

According to RCAP:<sup>17</sup>

[T]he Proclamation portrays Aboriginal nations as autonomous political units living under the Crown’s protection and on lands that are already part of the Crown’s dominions. Aboriginal nations hold inherent authority over their internal affairs and the power to deal with the Crown by way of treaty and agreement. In a word, it

8 Miller, *Lethal Legacy*, p. 57.

9 Miller, *Lethal Legacy*, p. 61.

10 Miller, *Lethal Legacy*, pp. 65-66.

11 Miller, *Lethal Legacy*, pp. 109-115.

12 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, pp. 122-125.

13 J.S. Frideres and R. R. Gadacz, *Aboriginal Peoples in Canada*, Seventh Edition (Toronto: Pearson Prentice Hall, 2005), p.184.

14 Miller, *Lethal Legacy*, p. 111.

15 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, pp. 115-119.

16 J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, Third Edition (Toronto: University of Toronto Press, 2000), p. 88.

17 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 117.

portrays the links between Aboriginal peoples and the Crown as broadly “confederal.”

RCAP describes the *Royal Proclamation* as a landmark document that is sometimes referred to as the Indian Bill of Rights. It established fundamental principles to guide the Crown in making treaties, particularly land-based treaties.<sup>18</sup> For example, land had to be purchased in a public meeting and it could only be purchased by the Crown.<sup>19</sup> The *Royal Proclamation* continues to form part of the legal basis for current arguments for Aboriginal title and self-government (Miller).<sup>20</sup>

## HISTORIC TREATIES AND ACTS: “DISPLACEMENT AND ASSIMILATION”

A growing settler society meant that the “Peace and Friendship” treaties gave way to treaties that focused on government acquisition of Indian lands. Such treaties started in the year following the *Royal Proclamation* (Dickason).<sup>21</sup> Surtees describes the major land cessions that took place in Upper Canada from 1815 to 1830. The war of 1812 weakened the Indians of Upper Canada and left their population and political power much diminished. Given their vulnerable position, it was not difficult for the British to acquire land. In the decade following the war, 2.8 million hectares of Indian land passed to government control.<sup>22</sup>

The relationship between First Nations and the settlers changed fundamentally once the First Nations were no longer needed for military alliances. Miller says that, prior to 1830, “the men who dealt with Indians had acted diplomatically, treating the Indians as powerful nations with which they had to parley to achieve agreement on a course of action.”<sup>23</sup> In 1830, however, government responsibility for Indian relations was transferred from military to civil authority and complete assimilation of First Nations became the goal.<sup>24</sup> In 1846, residential schooling was approved for First Nations in Eastern Canada.<sup>25</sup>

According to Miller, there was no definitive link between treaties and reserves up until the year 1850. Reserves were created without treaties, usually by religious organizations. As well, some treaties involved the purchase of land without the establishment of a reserve. From 1850 onwards, however, treaties were linked with the provision of reserves. In 1850, two treaties were established as a result of Ojibwa complaints about entrepreneurs looking for minerals on the shores of Lake Superior and Lake Huron. The Governor sent William Robinson to deal with these complaints, who then negotiated the Robinson-Superior and Robinson-Huron treaties. These were the first treaties to deal with large areas of land, provision of reserve lands, annuities and promises of hunting and fishing rights, all within a single treaty (Miller).<sup>26</sup> The

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18 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 2, p. 65.

19 *The Royal Proclamation of 7 October, 1763*, in *As Long as the Sun Shines and Water Flows: A Reader in Canadian Native Studies*, edited by I. A. L. Getty and A. S. Lussier (Vancouver: University of British Columbia Press, 1983), pp. 35-36.

20 Miller, *Skyscrapers Hide the Heavens*, p. 90.

21 O. P. Dickason, adapted by M. J. Calder, *A Concise History of Canada's First Nations* (Toronto: Oxford University Press, 2006), pp. 103-106.

22 R. J. Surtees, “Indian Land Cessions in Upper Canada, 1815-1830,” in *As Long as the Sun Shines and Water Flows*, pp. 65-66.

23 Miller, *Skyscrapers Hide the Heavens*, p. 125.

24 Miller, *Skyscrapers Hide the Heavens*, p. 142.

25 Miller, *Skyscrapers Hide the Heavens*, p. 134.

26 Miller, *Lethal Legacy*, p. 124.

provision of ongoing compensation and benefits in exchange for large tracts of land set the pattern for post-confederation treaties to follow.

The federal government followed a policy of assimilation from 1830 on. Miller describes how efforts at assimilation increased with the *Gradual Civilization Act* of 1857, which provided full citizenship for Indians deemed to be educated, debt-free and of good moral character. Individuals who became enfranchised gave up Indian status and received a land grant from reserved lands.<sup>27</sup> That act was considered a failure (Milloy).<sup>28</sup> Paradoxically, Miller points out, instead of encouraging Indians to become citizens, the act served instead to disempower First Nations peoples because it effectively defined them and set them out to be non-citizens. This treatment as non-citizens lasted in Canadian government policy for a century.<sup>29</sup>

With the *British North America Act* of 1867, “Indians and lands reserved for Indians” became the jurisdiction of the federal government and parliament of the new Dominion of Canada (Miller).<sup>30</sup>

Post confederation, the *Gradual Enfranchisement Act* of 1869 not only reinforced the 1857 provisions for enfranchisement and acquisition of freehold land, but also added a number of elements for determining Indian status. Both the 1857 and the 1869 acts focused on assimilation, a goal that endured until 1969. According to Tobias, between 1857 and 1920, only slightly more than 250 people chose to give up their Indian status in exchange for the rights promised.<sup>31</sup>

The 1869 act introduced the elective band council system which, according to RCAP, was a way to undermine traditional governance structures and divide tribal nations into smaller self-contained communities.<sup>32</sup> Additionally, Miller indicates that:<sup>33</sup>

The 1869 act also restricted the jurisdiction of band councils to matters of municipal government. And, finally, the same measure established a governmental veto of Indian legislation by making all band measures “subject to confirmation by the Governor in Council.”

In 1876, the federal government enacted the *Indian Act*, which to this day remains the key piece of legislation defining and governing the relationship between First Nations and the Government of Canada. The 1876 act sets out which Aboriginal people are defined as “Indian” and therefore have legal status as such. Indians recognized by the act are known as Status Indians as well as Registered Indians. Although the act has undergone numerous amendments, such as the ongoing revision of the legal definition of “Indian,”<sup>34</sup> Frideres and Gadacz, as well as Tobias, claim that the underlying ideology has remained fundamentally unchanged.<sup>35, 36</sup>

The *Indian Act* served as a tool to implement the *British North America Act* and define federal government jurisdiction over “Indians and lands reserved for Indians.”

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27 Miller, *Skyscrapers Hide the Heavens*, p. 140.

28 J. S. Milloy, “The Early Indian Acts: Developmental Strategy and Constitutional Change,” in *As Long as the Sun Shines and Water Flows*, p. 61.

29 Miller, *Skyscrapers Hide the Heavens*, p. 140.

30 Miller, *Skyscrapers Hide the Heavens*, pp. 197-198.

31 J. L. Tobias, “Protection, Civilization, Assimilation: An Outline History of Canada’s Indian Policy,” in *As Long as the Sun Shines and Water Flows*, p. 49.

32 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 257.

33 Miller, *Skyscrapers Hide the Heavens*, p. 198.

34 A most notable amendment is Bill C-31 in 1985, which re-instated status for Indian women who had married non-Indians.

35 Frideres and Gadacz, *Aboriginal Peoples in Canada*, p. 15.

36 Tobias, “Protection, Civilization, Assimilation,” p. 52.



The *Indian Act* detailed the ways in which the Government of Canada was to control Indian political structures, land usage and resource and economic development. This control made the federal government responsible for providing services to on-reserve First Nations peoples that are otherwise provided by the provinces and territories to other Canadians. This control has also resulted in the *Indian Act* being credited with preserving the reserve land base from further erosion (RCAP).<sup>37</sup>

By the late 1800s, First Nations peoples in Eastern and Central Canada became wards of the state, economically dependent on the federal government, with their territorial land restricted to reserves. Governance of First Nations peoples by First Nations peoples was all but non-existent. It was the on-site Indian Agent, appointed by the Government of Canada, who controlled the band council and the management of the reserve. The Indian Agent was also responsible for any accountability reporting to the government. As a result, the accountability relationship between the chief and council and members of a First Nation was very limited. Governance of First Nations had shifted from First Nations leaders to the Government of Canada. This shift meant that First Nations governments would be primarily accountable to the Government of Canada.

Government control of First Nations moved westward with the waves of immigrants who needed more land to accommodate them. On the prairies, First Nations depended on their natural environment for subsistence, and prosperity was related to the size and richness of the area in which they lived. As the population of settlers and First Nations increased, natural resources became scarcer. Spry describes the growing commercial value of buffalo and how buffalo were hunted with an intensity that led to their demise. Game, fish stocks and wood supplies were endangered by similar practices of over-harvesting. First Nations were not only sharing these resources with settlers but also with large-scale commercial enterprises that paid little heed to the need for re-generation. First Nations lost not only their basic subsistence but also the resources for their commercial activities.<sup>38</sup>

As described by Tough, the loss of natural resources prompted First Nations to consider treaties as a means toward economic transition and a more secure future that provided support for their economic activities.<sup>39</sup> First Nations in the west did not want to give up their territory without being assured that they would have adequate lands and resources for their own use to guarantee their economic security (RCAP).<sup>40</sup> Accordingly, they signed a series of numbered treaties to get those assurances.

The numbered treaty era began with Treaty No. 1 in Manitoba in 1871. Additional numbered treaties were negotiated as settlers needed more land. The numbered treaties concluded with Treaty No. 11 in 1921. These numbered treaties covered the land mass from northwestern Ontario west to the Rocky Mountains and North to include the Northwest Territories.

Each of these treaties resulted in a huge traditional territory being given up for a small reserve. For example, Treaty No. 5 covered an area of approximately 100,000 square miles. The reserve created in exchange for ceding this land amounted to “one hundred and sixty, or in some cases one hundred acres to each family of five” (Mor-

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37 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 278 – 279.

38 I. M. Spry, “The Tragedy of the Loss of the Commons in Western Canada,” *As Long as the Sun Shines and Water Flows*, p. 213.

39 F. Tough, *As Their Natural Resources Fail: Native Peoples and the Economic History of Northern Manitoba, 1870-1930* (Vancouver: University of British Columbia Press, 1996), pp. 88-89.

40 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 163.

ris).<sup>41</sup> In certain cases, even the acreage allotted under the treaties was not honoured, resulting in treaty land entitlement claims.<sup>42</sup>

Ideas about assimilation and the non-citizen status of First Nations remained in place for a century. RCAP describes how Status Indians fought in World War I, World War II and the Korean War without being citizens of Canada. Some Status Indians were reluctant to enlist for fear of having to give up their status to become enfranchised. Indeed, some were involuntarily enfranchised, losing all their rights as status Indians. First Nations people who served in the wars found that, when they returned home, they failed to receive the full extent of veterans' benefits.<sup>43</sup>

During the third stage of this history, the fundamental relationship between First Nations and Canada was one of First Nations' economic dependence on the Government of Canada. As far as governance, the *Indian Act* provided local governance powers to band councils such as the power to make by-laws although such by-laws could be vetoed by the Minister.

## SUMMARY

This chapter has outlined some of the key treaties and acts that defined the historical relationship between First Nations and Canada. Without this history as background, it is not possible to understand the current social, political and economic circumstances of First Nations. Study Group recommendations for financial reporting by First Nations will reflect this history in as much as it serves to shape the accountability relationships that First Nations have today. Chapter 3 will address the current stage of history, described by RCAP as "Negotiation and Renewal."

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41 A. Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories, Including the Negotiations on which they were based, and Other Information Relating Thereto* (Toronto: Belfords, Clarke & Co., 1880, reproduced by Fifth House Publishers, 1991), pp. 143-145.

42 Indian and Northern Affairs Canada, *Backgrounder Treaty Land Entitlement*, [http://www.ainc.inac.gc.ca/nr/prs/m-a2000/00132bk\\_e.html](http://www.ainc.inac.gc.ca/nr/prs/m-a2000/00132bk_e.html) (accessed December 11, 2006).

43 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p 551-587.



# Chapter 3 – Current Environment of First Nations

*Changing Accountability Relationships – Co-Existence Affirmed – Current Circumstances: Social – Current Circumstances: Political – Current Circumstances: Economic – Summary*

## CHANGING ACCOUNTABILITY RELATIONSHIPS

This chapter continues the description of the historical relationship between First Nations and Canada by exploring the fourth stage of Aboriginal history, described by RCAP as “Negotiation and Renewal.” This stage begins with the negative reaction to the 1969 White Paper on Indian Policy and a realization that the “Displacement and Assimilation” approach was not working. First Nations economic independence and accountability relationships changed dramatically over the first three stages of this history. The fourth stage will see them change again. The latest transformation came in the wake of political demonstrations, lobbying, government policy, treaties (comprehensive claims), legislation (including the *Constitution Act* of 1982) and litigation. None of these factors was solely responsible for the change. Rather, they are all interwoven and combined to create the social, political and economic environment of First Nations today.

First Nations peoples are not a homogenous group. They have different size populations, history, geography, culture, language, socio-economic conditions, treaty rights and circumstances, internal capacity, vision and priorities. Different bands have varying levels of resources, either own-source or federal funding, and they have different access to resources and training. Many bands now have a strong economy while others continue to rely to a much greater extent on traditional ways. First Nations also have different capabilities in terms of institutions and personnel to administer or deliver programs. Finally, because of factors such as size and geography, different bands incur different costs for providing the same services. As a result, specific accountability relationships will differ from First Nation to First Nation. Nevertheless, it is possible to generalize and identify three key accountability relationships for First Nations:

- (1) relationships with their members;
- (2) relationships with other levels of government; and
- (3) relationships with capital providers.

This chapter will provide an overview of the transformation of the relationship between First Nations and Canada over the last 40 years and lay out the social, political and economic context in which these current accountability relationships are situated. Although the various factors leading to this transformation will be discussed, the discussion will be necessarily brief.

## CO-EXISTENCE AFFIRMED

Much has changed since the 1960s, and many of the most profound factors that left First Nations powerless from a governance perspective have been addressed. For example:

- In 1960, First Nations peoples obtained full voting rights. The majority of Indian people living on reserves could not vote in federal elections until 1960 (RCAP).<sup>1</sup> Indian women were even more disenfranchised – they could not vote in band elections until the 1951 version of the *Indian Act* (RCAP) was passed.<sup>2</sup>
- The era of the Indian Agent is long over. Indian Agents served as the official spokespersons of Indian and Northern Affairs Canada (INAC) within First Nations communities right up to 1968 in some locations. Once Indian Agents were abolished, chiefs and their councils became responsible for program delivery and the reporting relationship with the federal government (OAG).<sup>3</sup>
- The residential schools were closed, beginning in the late 1960s (Frideres and Gadacz),<sup>4</sup> with the last one being closed in 1984 (Dickason).<sup>5</sup>

### Relations with the Federal Government

As the last chapter sketched out, there has been a long-standing relationship between First Nations and government departments. Although the Crown set up the British Indian Department in 1755 as the first agency to deal with Indian issues, 1830 is considered to be the beginning of the system of Indian administration in Canada (Frideres and Gadacz).<sup>6</sup> Over the years, a variety of government departments have had control over Indian affairs. The current system was put in place in the 1960s, with the Department of Indian Affairs and Northern Development (now known as INAC) being created in 1966.

Since the mid-1970s, federal government departments have been working to devolve responsibility for the delivery of programs and services to the direct control of First Nations, and the majority of government funding is now provided in the form of transfer payments. These transfer payments are meant to give on-reserve First Nations people with comparable services that other Canadians receive from their provincial and municipal governments. There are now 34 federal government departments and agencies funding programs and services for Aboriginal peoples, with INAC (at \$6.3 billion) and the First Nations and Inuit Health Branch of Health Canada (\$3.0 billion) having the largest budgets.<sup>7</sup>

According to INAC's *2006-2007 Report on Plans and Priorities*:

INAC's goal is to provide opportunities for First Nations, Inuit and Métis to more fully participate in and benefit from Canada's political, social and economic development while accommodating their aspirations to secure their own place in the Canadian federation consistent with Aboriginal and treaty rights, and to foster

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1 Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1 (Ottawa: Minister of Supply and Services Canada, 1996), p. 257.

2 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 275.

3 *December 2002 Report*, Chapter 1 (Ottawa: Office of the Auditor General of Canada, 2002), p. 3.

4 J. S. Frideres and R. R. Gadacz, *Aboriginal Peoples in Canada* (Toronto: Pearson Education Canada, 2005), p. 110.

5 O. P. Dickason, adapted by M. J. Calder, *A Concise History of Canada's First Nations* (Toronto: Oxford University Press, 2006), p. 228.

6 Frideres and Gadacz, *Aboriginal Peoples in Canada*, p. 349.

7 Treasury Board of Canada Secretariat, *Main Estimates 2006-2007*.

self-sufficient and prosperous regions in which Northerners manage their own affairs and make strong contributions to the federation.<sup>8</sup>

## Commissions and Reports

Over the last 40 years, the federal government and commissions appointed by the federal government have made considerable efforts to examine, define and re-define the relationship between First Nations and Canada. The federal government and these commissions wanted to resolve the profound problems in the relationship with First Nations, and recommended bold changes. The recommendations were never fully taken up, however, because none of the reports or papers was acceptable to both Aboriginal peoples and the Government of Canada.

Key commissions and reports included the following (this list is not comprehensive, nor does it do justice to the breadth of recommendations included in the reports):

- The 1966 *Hawthorn Report* created the notion of Indians as “citizens plus,” which would have given Indians the same rights and privileges accorded to all Canadians while retaining special status and Indian rights (Miller).<sup>9</sup>
- The infamous 1969 White Paper on Indian policy which, if implemented, “would have seen the global elimination of all Indian special status, the gradual phasing out of federal responsibility for Indians and protection of reserve lands, the repeal of the *Indian Act*, and the ending of treaties” (RCAP).<sup>10</sup> Based on the dramatic, negative reaction, the highly controversial White Paper was withdrawn.
- The 1983 *Penner Report on Indian Self-Government* recommended that Indians should have full legislative and policy making powers (Boldt).<sup>11</sup>
- The 1996 Royal Commission on Aboriginal Peoples produced a five-volume report that called for sweeping changes founded on the recognition of Aboriginal peoples as self-governing nations with a unique place in Canada.

Although the various recommendations in these reports were not adopted, they have served to educate the public and build public awareness. Court cases, changes in law and constitutional development would not have evolved without changing public opinion.

## Land Claims

In 1973, the federal government established a policy for the settlement of Aboriginal land claims. Currently, Aboriginal people are pursuing two major types of claims: specific and comprehensive.<sup>12</sup> Specific claims relate to the resolution of alleged non-fulfillment of Indian treaties and other legal obligations, as well as the improper administration of lands and other assets under the *Indian Act* or other formal agreements.<sup>13</sup> Comprehensive claims, which can result in what are known as modern-day treaties, are land claims based on the assertion of continuing Aboriginal title to lands and natural resources. These claims involve areas of Canada where Aboriginal people continue to live but where treaties were never entered into. This includes much of British Columbia, the Yukon, the Northwest Territories and parts of eastern Canada.

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8 Treasury Board of Canada Secretariat, *RPP 2006-2007 Indian and Northern Affairs, Canadian Polar Commission and Indian Specific Claims Commission*, p. 2.

9 J. R. Miller, *Lethal Legacy: Current Native Controversies in Canada* (Toronto: McClelland & Stewart, 2004), p. 281.

10 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 259.

11 M. Boldt, *Surviving as Indians: The Challenge of Self-Government* (Toronto: University of Toronto Press, 1993), p. 88.

12 Frideres and Gadacz, *Aboriginal Peoples in Canada*, p. 214.

13 *Resolving Aboriginal Claims: A Practical Guide to Canadian Experiences* (Ottawa: Indian and Northern Affairs Canada), p. 8.

The first two comprehensive land claims were negotiated during the 1970s: the *James Bay and Northern Quebec Agreement (1975)* and the *Northeastern Quebec Agreement (1978)* (RCAP).<sup>14</sup> While the comprehensive claims are based on the unique history, geography, culture and economy of the region and communities concerned, these modern-day treaties have a number of common elements that define a wide range of rights, responsibilities and benefits, including the following:<sup>15</sup>

... ownership of lands, fisheries and wildlife harvesting rights, participation in land and resource management, financial compensation, resource revenue sharing and economic development projects.

With the resolution of land claims comes capital payments of many millions of dollars. The magnitude of these payments, and the responsibility that comes with managing these funds on behalf of the community, have fundamentally changed the relationship First Nations have with their members and with other levels of government.

### The Constitution

The *Constitution Act, 1982*, Section 35 (1) recognized and affirmed existing Aboriginal and treaty rights with the clause: “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed” (RCAP).<sup>16</sup> This means that Aboriginal rights and title cannot be extinguished without the full consent of Aboriginal peoples. However, because of the lack of clear definition in the Constitution, court cases and negotiations have been the means used to define these rights.

As well, Section 25 of the *Constitution Act, 1982*, was created to ensure that the *Canadian Charter of Rights and Freedoms* would not (RCAP):<sup>17</sup>

...abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including: (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and (b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.

Aboriginal rights within the constitution were further discussed at the constitutional conference of 1992, which engaged the full participation of national Aboriginal leaders. Although the resulting *Charlottetown Accord* was defeated, it attempted to recognize the inherent right of Aboriginal self-government. The accord served to demonstrate that federal, provincial and territorial governments accepted that the right of Aboriginal self-government is inherent even though this recognition did not become codified (RCAP).<sup>18</sup>

### British Columbia

For much of the province of British Columbia, treaties were never made with Aboriginal people. In 1921, at the end of the numbered treaty era, most of mainland British Columbia remained without treaties.<sup>19</sup> Nevertheless, reserves were allotted to Aboriginal people. The government of British Columbia failed to recognize Aboriginal title and paid no compensation for the loss of traditional lands and resources (Frideres and Gadacz).<sup>20</sup>

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14 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 205.

15 *Resolving Aboriginal Claims*, p. 9.

16 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 207.

17 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 207.

18 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, p. 216.

19 Frideres and Gadacz, *Aboriginal Peoples in Canada*, p. 193.

20 Frideres and Gadacz, *Aboriginal Peoples in Canada*, pp. 189-190.

As a result, some First Nations in British Columbia are involved in treaty negotiations for the first time. The independent BC Treaty Commission began operations in 1993 to facilitate treaty negotiations between Canada, the province of British Columbia and the First Nations in the province. The resulting treaties are meant to settle uncertainty about “the use, management, and regulation of land and resources and the laws that apply to the land and the people.”<sup>21</sup> According to the Auditor General of Canada, one of the issues with the negotiation process is that all parties do not share a common vision of Aboriginal rights and title. The two governments base their participation on their own policies, while First Nations base their participation on the assertion that they have Aboriginal rights under the Constitution.<sup>22</sup>

### Court Cases

A number of court cases have served to help define Aboriginal rights and reinforce concepts that have been proposed elsewhere. Many of these cases have been triggered by the unique situation in British Columbia. By the 1970s, the courts had begun to acknowledge Aboriginal legal rights in land that had not been provided for by treaty or statute. In 1973, the Supreme Court of Canada ruled, in *Calder v. the Attorney General of British Columbia*,<sup>23</sup> that Indian title “was a legal right, independent of any form of enactment, and rooted in Aboriginal peoples’ historic ‘occupation, possession and use’ of traditional territories.”<sup>24</sup>

In December 1997, the Supreme Court of Canada provided a ground-breaking ruling in the *Delgamuukw* case.<sup>25</sup> This case served to provide the first definitive statement on the content of Aboriginal title in Canada as well as the scope of protection afforded Aboriginal title under subsection 35(1) of the 1982 Constitution Act. The decision defines how Aboriginal title may be proved and outlines the justification test for infringements of Aboriginal title.<sup>26</sup>

More recently, two Supreme Court cases have stated that the Crown has a duty to consult in cases where Aboriginal title or rights potentially exist (as opposed to proven title or rights) and, where appropriate, to accommodate those rights. In the case involving the Haida Nation,<sup>27</sup> the province of British Columbia knew that potential Aboriginal rights and title applied to the land in question and that a decision to provide a Tree Farm Licence on Haida Gwaii could have serious impacts. In other words, the land might be stripped of its resources before any claim could be proven. The Court ruled that the Crown had a duty to consult with the First Nation involved and, where appropriate, accommodate the First Nation’s interests. There is no duty, however, to reach an agreement and the First Nation does not have a right to veto the Crown’s ultimate decision. The other case involved the Taku River Tlingit First Nation in British Columbia and the Tulsequah Chief Mine project of Redfern Resources.<sup>28</sup> In this case, the Crown had consulted the First Nation during the environmental assessment period. The question was whether the First Nation’s interests were adequately accommodated. The Court ruled that the Crown had satisfied its duty to consult and accommodate through the process carried out under the Envi-

21 *November 2006 Report*, Chapter 7 (Ottawa: Office of the Auditor General of Canada, 2006), p. 5.

22 Auditor General of Canada, *November 2006 Report*, Chapter 7, p. 2..

23 *Calder v. the Attorney General of British Columbia*, [1973] S.C.R. 313.

24 Library of Parliament, Parliamentary Information and Research Services, Legislative Summaries, BP-459E, Revised February 2000, <http://www.parl.gc.ca/information/library/PRBpubs/bp459-e.htm> (accessed January 21, 2007), p. 2.

25 *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010.

26 Library of Parliament, Legislative Summaries, BP-459E, Revised February 2000, <http://www.parl.gc.ca/information/library/PRBpubs/bp459-e.htm> (accessed January 21, 2007).

27 *Haida Nation v. British Columbia* (Minister of Forests), [2004] 3 S.C.R. 511.

28 *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, [2004] 3 S.C.R. 550.



ronmental Assessment Act. It should be noted that, although the duty to consult legally applies only to provincial and federal governments, it is in the best interests of industry to ensure that sufficient consultation takes place.<sup>29, 30</sup>

Lobbying, government policy, treaties (comprehensive claims), legislation and litigation will continue to transform the relationship between First Nations and Canada, and, at the same time also, transform the social, political and economic environment for First Nations.

## CURRENT CIRCUMSTANCES: SOCIAL

According to INAC, there are currently 615 First Nations communities in Canada, comprising more than 50 nations or cultural groups and more than 50 languages.<sup>31</sup> For the most part, these communities are small. About 60 percent of them have fewer than 500 residents and only seven percent have more than 2,000. In total, there are 471,900 on-reserve Status Indians and 284,800 Status Indians who reside off-reserve. The First Nations population is youthful and growing at a faster rate than the rest of Canada. The on-reserve Status Indian population is expected to increase by 49 percent between 2005 and 2021. This compares to 11 percent for the Canadian population as a whole. About 40 percent of the Status Indian population is under the age of 20, compared with 24 percent for the overall Canadian population.<sup>32</sup>

Unfortunately, the negative impact and legacy of the era of “Displacement and Assimilation” is still felt today. Statistics on education, labour force participation and income reveal a gap between registered Indians and the total population of Canada. This gap becomes bigger when the statistics for registered Indians are limited to registered on-reserve Indians. Social change does not happen overnight, and the relationship between First Nations and Canada is still evolving. Much remains to be done to ensure that all First Nations enjoy a state of well-being comparable to other Canadians.

Overall figures for education indicate that, in 2001, the high school completion rate was 51 percent for Status Indian women and 46 percent for Status Indian men. When these figures are limited to Status Indians on-reserve, the percentages fall to 44 percent for women and 39 percent for men. This compares with 69 percent for both men and women in the total Canadian population.<sup>33</sup>

As far as labour force participation, the 2001 figures indicate that the employment rate for Status Indians is 43 percent. For Status Indians on-reserve, this figure is 37 percent. This compares with employment rates for the overall Canadian population of 62 percent.<sup>34</sup>

A similar gap is evident for income. In 2000, the income for Status Indians 15 years of age and over was an average of \$19,623. The average was \$16,850 for Status Indians on-reserve and \$31,757 for Canadians overall.<sup>35</sup>

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29 “Court Rulings Affect Industry,” *The Northern Miner*, 91, 14 (May 27-June 2, 2005), p. 4.

30 A. Hiyate, “Court Battle Brings Native Land Rights to Fore,” *The Northern Miner*, 92, 20 (July 7-July 13, 2006), p. 1.

31 Indian and Northern Affairs Canada, *Report on Plans and Priorities 2007-08 Estimates*,

32 Treasury Board of Canada Secretariat, *Canadian Polar Commission and Indian Specific Claims Commission*, p. 7. Note that bands may be amalgamated or split, which means that the total number of bands can change from year to year.

33 *Comparison of Socio-economic Conditions, 1996 and 2001* (Ottawa: Indian and Northern Affairs Canada, 2005), p. 7.

34 *Comparison of Socio-economic Conditions, 1996 and 2001*, p. 14.

35 *Comparison of Socio-economic Conditions, 1996 and 2001*, p. 15.

Education levels, labour force participation and income all affect prospects for economic prosperity. INAC developed a Community Well-Being index to monitor the well-being of First Nations compared to other Canadian communities. The index is made up of indicators such as educational attainment, income, housing conditions and labour force activity derived from Census data. In 2001, the index confirmed that overall socio-economic conditions were poorer in First Nations communities than in other Canadian communities. During the period from 1991 to 1996, however, the improvement in well-being scores was greater for First Nations communities. Both types of communities span a broad range of the well-being continuum. Indeed, several First Nations communities rank among the country's most prosperous communities.<sup>36</sup>

First Nations seek a comparable level of social and economic well-being enjoyed by all Canadians. This means receiving services comparable to the services that other Canadians receive. The federal government has played a key role in assisting with the well-being of First Nations. It is a role that has changed in recent decades. Changes have included federal government devolution of the management of programs and services and the negotiation of self-government agreements with specific First Nations. With devolution, First Nations receive funding so that they can manage their own programs and services. This has resulted in a transfer of administrative responsibilities to First Nations, which has served to increase the accountability of First Nations to the federal government. This has also increased the accountability of First Nations leaders to their members.

The multiplicity of funding sources, with differing requirements for accountability and financial reporting, creates a considerable administrative burden for First Nations. According to INAC's *Report on Plans and Priorities for 2006-2007*:<sup>37</sup>

Roughly 85 percent of INAC expenditures are directed at the delivery of province-like and municipal-like programs and services on reserve, resulting in a diversity of roles and responsibilities in a wide range of program areas. To be effective, these programs need to keep pace with changing needs and modern administrative standards developed in various jurisdictions. Furthermore, the large number of federal departments involved in delivering programs for Aboriginal peoples have different mandates, delivery mechanisms and reporting criteria, often creating challenges for Aboriginal service providers that administer and report on programs and services.

The involvement of provinces and territories in delivering programs and services off reserve can also contribute to the potential for overlap and duplication.

Given the diversity among First Nations and their current social, political and economic circumstances, there are issues with capacity and the ability for certain First Nations governments and their members to fulfill their roles and responsibilities. Smaller First Nations (especially those with fewer than 500 residents) find it difficult to obtain sufficient management and accounting expertise. Although beyond the scope of this report, the Study Group acknowledges that First Nations will need ongoing training and investment to develop or acquire the necessary expertise for financial reporting.

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36 E. O'Sullivan, *The Community Well-Being (CWB) Index: Well-Being in First Nations Communities, 1981-2001 and into the Future* (Ottawa: Indian and Northern Affairs Canada, Strategic Research And Analysis Directorate, February 2006), pp. 1, 38.

37 Treasury Board of Canada Secretariat, *Canadian Polar Commission and Indian Specific Claims Commission*, pp. 2-3.

## CURRENT CIRCUMSTANCES: POLITICAL

Currently, First Nations government usually takes one of two forms: (1) government by band council operating under the *Indian Act*; or (2) self-government under a negotiated a self-government agreement with provincial or territorial and federal governments that has removed the First Nation from *Indian Act* coverage. When this report discusses First Nations government in general, both forms will be referred to simply as government.

### Government by Band Council

Government by band council is not self-government within the meaning of a self-government agreement between an Aboriginal group, Canada and the relevant province or territory. Rather, a band government is better described as self-administration (RCAP).<sup>38</sup> Under the *Indian Act*, band governments have a limited range of powers delegated by the federal government. Self-governing First Nations, however, have control over their own jurisdictions.

Nevertheless, the two forms of government have many common elements, such as:

- representational leadership;
- delivery of public goods and services;
- ownership of commercial enterprises;
- a collective interest in land; and
- a variety of accountability relationships.

### Self-government

In 1995, the Government of Canada recognized the inherent right of self-government as an existing Aboriginal right under Section 35 of the *Constitution Act*, 1982, and now views the negotiation of a self-government agreement between an Aboriginal group, Canada and the relevant province or territory as the most practical and effective way of implementing this right. These agreements ensure that jurisdictions and authorities exercised by an Aboriginal government work in harmony with those of other levels of government. To quote the Federal Policy Guide on Aboriginal self-government:<sup>39</sup>

The inherent right of self-government does not include a right of sovereignty in the international law sense, and will not result in sovereign independent Aboriginal nation states. On the contrary, implementation of self-government should enhance the participation of Aboriginal peoples in the Canadian federation, and ensure that Aboriginal peoples and their governments do not exist in isolation, separate and apart from the rest of Canadian society.

Several First Nations have negotiated self-government although the terms and conditions of self-government are not identical in all cases. Other Aboriginal groups also have self-government agreements. For example, the Labrador Inuit, along with the Government of Canada and the Government of Newfoundland and Labrador, created the Nunatsiavut Government, which provides a new governing structure for the Labrador Inuit and Labrador Inuit lands. Establishing self-government is complicated and usually requires tri-partite negotiations with provincial or territorial and federal governments. Below are a few examples of self-governing First Nations.

<sup>38</sup> *Report of the Royal Commission on Aboriginal Peoples*, Vol. 2, p. 283.

<sup>39</sup> Federal Policy Guide, *Aboriginal Self-Government: The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government* (Ottawa: Indian and Northern Affairs Canada, 1995), p. 4.

The *Cree-Naskapi (of Quebec) Act, 1984* was the first Indian self-government legislation in Canada. Under this act, the bands to which it applies were established as corporations and given most of the powers that were otherwise exercised by the Minister of Indian Affairs and Northern Development and the Governor in Council. This gives the bands under this act a clearer legal status. As corporations, they can enter into contracts, own property and take legal action in their own name without having specific individuals, such as councilors, acting on their behalf. In this case, the band government has two roles: to act as the local government authority over specified lands and to administer and manage the lands as if it were the owner of the lands.<sup>40</sup>

Similarly, the *Sechelt Indian Band Self-Government Act, 1986* replaces the *Indian Act* for the Sechelt band, giving it the rights and privileges of a natural person. Separate provincial legislation gives the Sechelt band legal status as a municipality, while the federal legislation gives Sechelt property taxation authority over Aboriginal and non-Aboriginal residents' rights (RCAP).<sup>41</sup>

The *Nisga'a Final Agreement*, which came into effect in 2000, marked the first time that a land claim and a self-government agreement were negotiated at the same time and given constitutional protection in a treaty.<sup>42</sup> The Nisga'a Government may make laws governing such things as Nisga'a citizenship; Nisga'a language and culture; Nisga'a property in Nisga'a lands; public order, peace and safety; employment; traffic and transportation; the solemnization of marriages; child and family, social and health services; child custody, adoption, and education. While the *Nisga'a Final Agreement* addresses the rights of the Nisga'a people, it does so within the Canadian constitutional context, and Nisga'a law making authorities will operate concurrently without diminishing the law making authorities of the federal and British Columbia governments.<sup>43</sup>

### Public Government

Public government is a legally established government that represents all residents within a defined territory, whether they are Aboriginal or not. For example, this kind of government was enacted to create the territory of Nunavut for the Inuit. Nunavut was partitioned out of the central and eastern part of the Northwest Territories in 1999. All residents of Nunavut are entitled to run for office and elect Members of the Legislative Assembly.<sup>44</sup> As a territory, the Nunavut government is included in the current definition of government in the *Public Sector Accounting (PSA) Handbook* and, therefore, is already directed to follow established GAAP for financial reporting by provincial, territorial and federal governments in Canada. This report, however, deals only with First Nations who have a government by band council operating under the *Indian Act* and First Nations who have negotiated a self-government agreement and are no longer subject to the *Indian Act*.

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40 Indian and Northern Affairs Canada, *The Cree-Naskapi (of Quebec) Act*, [http://www.ainc-inac.gc.ca/pr/info/info11\\_e.html](http://www.ainc-inac.gc.ca/pr/info/info11_e.html) (accessed September 8, 2006).

41 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 2, p. 413.

42 Indian and Northern Affairs Canada, *Resolving Aboriginal Claims*, p. 5.

43 Indian and Northern Affairs Canada, *Nisga'a Final Agreement Issue Papers No. 20*, [http://www.ainc-inac.gc.ca/pr/agr/nsga/isspap\\_e.html](http://www.ainc-inac.gc.ca/pr/agr/nsga/isspap_e.html) (accessed November 18, 2006).

44 Government of Nunavut, *Consensus Government*, <http://www.gov.nu.ca/Nunavut/English/about/cg.pdf> (accessed January 5, 2007).

## CURRENT CIRCUMSTANCES: ECONOMIC

### Changing Legislation

First Nations governments have experienced various barriers to economic development. For example, under provisions of the *Indian Act*, reserve land cannot be used as collateral because it cannot be seized by creditors. This has tended to limit access to financing (RCAP).<sup>45</sup> Although self-government agreements have increased flexibility in accessing capital, First Nations operating under the *Indian Act* have continued to face significant jurisdictional and institutional gaps that have prevented them from effectively pursuing economic activities. In recent decades, First Nations have been encouraging the federal government to develop appropriate institutional arrangements and legislative authorities to facilitate economic development. Several pieces of legislation have resulted.

In 1988, the *Indian Act* was amended to clarify First Nation jurisdiction over property taxation on reserve land. Known as the Kamloops amendment, this change provided First Nations governments with the ability to tax interests within their reserves and, thereby, create economic development opportunities. As a result of this amendment, the Indian Taxation Advisory Board was formed to support First Nations wishing to implement property taxation.<sup>46, 47</sup>

More recently, four pieces of stand-alone legislation were passed to make it easier for First Nations to achieve self-sufficiency and engage in the economy in a more seamless way (Frideres and Gadacz):<sup>48</sup>

- *First Nations Land Management Act, 1999*;
- *First Nations Fiscal and Statistical Management Act, 2005*;
- *First Nations Oil and Gas and Moneys Management Act, 2005*; and
- *First Nations Commercial and Industrial Development Act, 2005*.

The *First Nations Land Management Act, 1999* was passed to exempt First Nations named in the act from the land management provisions of the *Indian Act*. Additional First Nations may request the Governor in Council to have this act apply to them. Each First Nation under this act is required to develop its own land codes, which will have the effect of law.<sup>49</sup>

The *First Nations Fiscal and Statistical Management Act, 2005*, known as the First Nations Fiscal Institutions Initiative, was motivated by a need to address infrastructure and investment barriers on First Nations land. The act authorized four inter-related institutions:<sup>50, 51</sup>

- First Nations Tax Commission;
- First Nations Financial Management Board;
- First Nations Finance Authority; and

45 *Report of the Royal Commission on Aboriginal Peoples*, Vol. 2, p. 809.

46 Indian and Northern Affairs Canada, *Biography, Mr. C. T. (Manny) Jules*, [http://www.ainc-inac.gc.ca/nr/prs/s-d2006/02813bk\\_e.html](http://www.ainc-inac.gc.ca/nr/prs/s-d2006/02813bk_e.html) (accessed January 21, 2007).

47 Indian Taxation Advisory Board, *Mandate*, <http://www.itab.ca/english/mandate/default.asp> (accessed August 31, 2006).

48 Frideres and Gadacz, *Aboriginal Peoples in Canada*, p. 367.

49 Indian and Northern Affairs Canada, *First Nations Land Management Act*, [http://www.ainc-inac.gc.ca/pr/pob/matr/fnl\\_e.html](http://www.ainc-inac.gc.ca/pr/pob/matr/fnl_e.html) (accessed September 1, 2006).

50 First Nations Fiscal Institutions Initiative, <http://www.fnfi.ca/main.phtml> (accessed August 30, 2006).

51 Library of Parliament, Parliamentary Information and Research Services, Legislative Summaries, LS-495E, November 30, 2004, [http://www.parl.gc.ca/common/bills\\_ls.asp?lang=E&ls=c20&source=library\\_prb&Parl=38&Ses=1](http://www.parl.gc.ca/common/bills_ls.asp?lang=E&ls=c20&source=library_prb&Parl=38&Ses=1) (accessed August 30, 2006).

- First Nations Statistical Institute.

With the exception of the First Nations Tax Commission, which will evolve from the Indian Taxation Advisory Board, these institutions were getting established during the time this report was being produced. It should be noted that use of these four institutions is at the discretion of individual First Nations.

The *First Nations Oil and Gas and Moneys Management Act, 2005* allows First Nations to manage and control the oil and gas on their lands. The act also sets out responsibility for the management of all trust moneys currently held by the Crown, excluding, however, moneys collected, received or held by Her Majesty under the *Indian Act* for use and benefit of an individual.<sup>52</sup>

The *First Nations Commercial and Industrial Development Act, 2005* enables First Nations to request the federal government to make regulations for commercial and industrial development projects on reserve lands.<sup>53</sup>

These recent acts serve to empower First Nations to engage in economic activity. The institutions created under the *First Nations Fiscal and Statistical Management Act* will create additional accountability relationships between the First Nations involved and First Nations institutions.

## Economic Development

Economic opportunities for First Nations people can be found on-reserve as well as off-reserve and can consist of individual employment and individual entrepreneurial activity as well as First Nation government-owned commercial ventures. This report is concerned strictly with economic activity undertaken by a First Nation rather than an individual. Although individuals entering into business through a sole proprietorship, a partnership or a corporation may be members of a First Nation, their efforts are separate from the economic activity of their First Nation overall. Accordingly, such individuals would account for their economic activity using for-profit GAAP for the private sector as promulgated by the CICA.

INAC administers several programs to foster economic development among First Nations communities. These include: the Aboriginal Workforce Participation Initiative; the Community Economic Development Program; the Community Economic Opportunities Program; and the First Nations Forestry Program.<sup>54</sup> INAC has recently taken over management of Aboriginal Business Canada, which was run by Industry Canada for two decades. Aboriginal Business Canada works with a number of Aboriginal Capital Corporations that provide developmental loans for enterprises not yet ready to secure business loans from banks. There are 32 active Aboriginal Capital Corporations across Canada, some of which provide business services in addition to financing.<sup>55, 56</sup>

Despite the need for the legislation mentioned above, many First Nations governments have successfully launched a wide range of business enterprises. Some of these enterprises are controlled by a single First Nation, while others are controlled

52 Library of Parliament, Legislative Summaries, LS-510E, August 25, 2005, [http://www.parl.gc.ca/common/bills\\_ls.asp?lang=E&ls=c54&source=library\\_prb&Parl=38&Ses=1](http://www.parl.gc.ca/common/bills_ls.asp?lang=E&ls=c54&source=library_prb&Parl=38&Ses=1) (accessed August 31, 2006).

53 Library of Parliament, Legislative Summaries, LS-520E, January 9, 2006, [http://www.parl.gc.ca/common/bills\\_ls.asp?lang=E&ls=c71&source=library\\_prb&Parl=38&Ses=1](http://www.parl.gc.ca/common/bills_ls.asp?lang=E&ls=c71&source=library_prb&Parl=38&Ses=1) (accessed August 30, 2006).

54 *Economic Development: Programs Guide 2005* (Ottawa: Indian and Northern Affairs Canada, 2005).

55 Indian and Northern Affairs Canada, Aboriginal Business Canada, *About ABC*, [http://strategis.ic.gc.ca/epic/internet/inabc-eac.nsf/en/h\\_ab00070e.html](http://strategis.ic.gc.ca/epic/internet/inabc-eac.nsf/en/h_ab00070e.html) (accessed June 4, 2007).

56 Indian and Northern Affairs Canada, Aboriginal Business Canada, *Aboriginal Financial Institutions*, [http://strategis.ic.gc.ca/epic/internet/inabc-eac.nsf/en/h\\_ab00155e.html](http://strategis.ic.gc.ca/epic/internet/inabc-eac.nsf/en/h_ab00155e.html) (accessed June 4, 2007).

by a tribal council with multiple First Nations as members. A very small sample of these enterprises includes the following:

- Lac La Ronge First Nation (Saskatchewan) has established a limited partnership, Northern Lights Foods, which exports certified wild rice and organic wild mushrooms to Europe, Japan and the United States.
- Osoyoos First Nation (British Columbia) is known for the winery, Nk'Mip Cellars, which is run as a joint venture between the band and Vincor International Ltd.
- Tlicho First Nation (Northwest Territories) is one of the First Nations in the midst of a diamond mining area. Not only is the First Nation obtaining royalties from the mining but it is also capitalizing on economic development by providing support services to the mining industry, such as trucking and environmental clean-up.
- Vuntut Gwitchin First Nation (Yukon) is part owner of an airline company, Air North.
- Waswanipi Cree First Nation (Quebec) created the Waswanipi Mishtuk Corporation to engage in a silviculture and timber harvesting joint venture with Domtar.
- Westbank First Nation (British Columbia) has developed a major shopping centre (100,000 square feet).
- Whitecap Dakota First Nation (Saskatchewan) owns an internationally recognized golf course.

This limited sample of First Nations business enterprises provides evidence of the diversity of activity, as well as the diversity of legal forms in which business activities are structured. With this range of legal forms comes a range of risks and rewards. The least risky is a concession agreement whereby the First Nation will grant production rights to a company to extract natural resources. The First Nation has minimal financial or management involvement and merely receives royalties from the concession.<sup>57</sup> A joint venture is another popular form. It involves the pooling of financial and managerial resources as well as capital assets, land and technical expertise with other parties. A joint venture spreads the costs and risks and provides joint control. Another common form for conducting business activity is a community development corporation, whereby a First Nation creates a corporation to pursue its economic development plans. Considerable capital is needed up-front to launch and sustain this type of economic endeavour.

## SUMMARY

This chapter has outlined the current relationship between Canada and First Nations since the late 1960s. During this time, the relationship changed dramatically. Devolution of federal government control over First Nations programs and services and First Nations pursuit of self-government agreements has meant a significant increase in governance of First Nations by First Nations. This has increased the accountability between First Nations and the federal government as well as accountability between First Nations and their members. With this increased accountability came the need for accountability reporting.

With increased governance and government support for economic development, First Nations have pursued various business enterprises. Barriers to economic devel-

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<sup>57</sup> With the exception of a few bands listed under the *First Nations Oil and Gas and Moneys Management Act*, 2005, payments from resource development royalties are not made to the First Nation but rather to a trust administered by INAC. According to the November 2003 report of the Auditor General of Canada, Chapter 9, the funds are placed in trust accounts and the First Nation must make a detailed request to the Minister to access the funds.

opment and jurisdictional gaps in the *Indian Act* are being addressed with recent legislation such as the *First Nations Fiscal and Statistical Management Act*, which creates four First Nations Fiscal Institutions to address infrastructure and investment barriers on First Nations land. Business enterprises require capital contributions, creating a new key accountability relationship for First Nations. Parties to this type of relationship also expect accountability reporting.

Although First Nations are diverse and may be *Indian Act* First Nations or self-governing First Nations, there are some common accountability relationships that the Study Group considered in developing its recommendations for financial reporting by First Nations.





# Chapter 4 – Accountability, Users, General Purpose Financial Statements and Special Purpose Reporting

*Drivers of Accounting Practice – Users – Accountability and Accountability Relationships – General Purpose Financial Statements – Special Purpose Reporting – Assurance on General Purpose Financial Statements and Special Purpose Reports – Annual Reports – Summary*

## **DRIVERS OF ACCOUNTING PRACTICE**

Chapter 3 of this report looked at the recent history and current environment of First Nations. Accounting practice and the need for financial reporting is based on social, political and economic circumstances and the accountability relationships that arise from these circumstances. Accountability is the fundamental motivation for financial reporting and, for accountability to be effective, reporting also has to be effective. This chapter begins with a discussion of the accountability relationships of First Nations and the users that arise from these relationships. Then, the chapter goes on to discuss accountability and the various forms of accountability reporting.

Describing First Nations is difficult to do with generalizations. Some First Nations have achieved self-government status through legislation, giving them a different legal status that allows them to operate as legal persons. Other First Nations do not have such legal status but are economically healthy, with thriving business ventures as well as significant control over moneys received from the federal government. Still other First Nations have deficit problems that have resulted in intervention by Indian and Northern Affairs Canada (INAC).

Regardless of their current fiscal status, however, and whether or not they are operating under the *Indian Act* or have self-governing legislation, First Nations have generally moved through three phases of governance – described in Chapter 2 – and are now in a fourth phase.

In this current phase, First Nations are regaining and extending governance authority. The devolution of program management to First Nations governments, greater band control of government funding and an increase in the number of First Nations negotiating self-government agreements have changed the accountability relationships of First Nations. Most important, there has been a change in the relationship be-

tween the leadership of First Nations and their members. To have robust governance, not only is it necessary for the leadership of a First Nation to be accountable to its members, the members of a First Nation must also take responsibility for staying informed and holding their leadership accountable. As a result, the primary accountability relationship of a First Nation government is with its members.

The relationship between First Nations and the rest of Canada is also changing. According to the Auditor General of Canada: “The relationship is still evolving, with continued emphasis on the transfer of program administration to First Nations and self-government initiatives.”<sup>1</sup> In the past, this relationship was one of economic dependence. Now, in most instances, First Nations – whether self-governing or operating under the *Indian Act* – will continue to depend on federal government transfers for funding for province-like programs and services such as health and education for on-reserve members. Because these are similar to the programs and services that the provinces and territories deliver to other people throughout Canada, the ongoing dependence of First Nations will be no different than the ongoing dependence that provinces and territories have on federal government transfers.

Although federal government funding to First Nations comes primarily from INAC, Health Canada and Canada Mortgage and Housing Corporation also fund major programs and services. In addition, a variety of other government departments provide other amounts of funding. All of this funding has been the driving force behind the federal government’s need for financial information from First Nations. Because GAAP for governments does not explicitly include First Nations, the federal government has had to develop its own guidance for financial reporting by First Nations.

In addition to federal government transfer payments, First Nations have other sources of revenue. The nature and extent of these sources varies from First Nation to First Nation and includes: funding from provincial and territorial governments; user fees for services such as garbage pick-up and moorage; rental income for housing agreements; property taxes; and profits from economic development. Currently, more than 100 First Nations levy property taxes on-reserve and, in 2005-2006, annual tax revenues exceeded \$46 million.<sup>2</sup> Economic development initiatives range from gas bars and grocery stores to mining and forestry ventures to wineries and golf courses. Such enterprises often require external sources of capital and may necessitate agreements with provincial, territorial and municipal governments.

As the extent of taxation revenue and own-source revenue from economic development grows, so will the diversity of users of First Nations financial reporting. First Nations need to acknowledge and accommodate user needs and the growing diversity of users. For example, capital providers will increasingly become users of First Nations financial statements. Not only will First Nations governments seek financing to provide lines of credit to smooth fluctuations in cash flow from federal government transfers, they will also seek financing to develop their economic enterprises and the necessary related infrastructure for those enterprises.

## USERS

First Nations governments have direct accountability relationships with both internal and external parties. In addition, some users may want financial information from a First Nation even though there is no direct accountability relationship.

1 2006 Status Report, Chapter 5 (Ottawa: Office of the Auditor General of Canada, 2006), p. 148.

2 First Nations Tax Commission, Frequently Asked Questions, <http://www.fntc.ca/faq.phtml> (accessed November 19, 2006).

To be more specific, First Nations have three key accountability relationships:

- (1) to First Nation members, living on-reserve and off-reserve, who have a right to select their First Nation government leaders;
- (2) to federal government departments that provide funding to First Nations, as well as to provincial and territorial governments that have established legal or economic relationships with First Nations; and
- (3) to capital providers who are investors, lenders and creditors and use the information for decision-making purposes.

In addition, there are users within First Nations governments:

- elected and appointed representatives and officers;
- operational and administrative management; and
- employees.

These internal users need information specific to their areas of concern. Often, this will necessitate the creation of certain reports with highly restricted distribution. Financial reporting information prepared for external users should also assist internal users in fulfilling their roles and responsibilities and enable them to monitor the fiscal health of their government.

In addition to the three key accountability relationships and internal users, First Nations may be accountable to others. As First Nations increase their economic development and implement self-government jurisdictions, these users can include, but are not limited to:

- residents on First Nations land who are taxpayers, whether they are First Nations members or not;
- various organizations that have contractual relationships with First Nations requiring financial reporting;
- current and potential business partners who will want the information for decision-making purposes;
- developers who are involved in residential housing, industrial and commercial properties and other capital projects; and
- regulators and agencies monitoring First Nations.

Finally, there is a group of users with no direct accountability relationship but who may also want access to First Nations financial reports:

- credit-rating organizations and analysts who use financial information to analyze and evaluate financial issues;
- news media;
- public interest groups; and
- the general public.

Society has come to expect transparent disclosure from governments as well as publicly traded corporations. As First Nations increase their economic role in society, it is likely that society will increasingly have expectations about obtaining financial reports from First Nations. The news media and public interest groups fuel public opinion by synthesizing such information and providing commentary on it.

Different users have different information needs and different rights for information, depending on the nature of the accountability relationship. Thus, the provision of financial statements to the full range of possible users will depend on the accountability relationships involved as well as the extent to which a First Nation wishes to be transparent. It should be noted that accounting and the provision of financial statements is just part of an accountability relationship.

## **ACCOUNTABILITY AND ACCOUNTABILITY RELATIONSHIPS**

For this report, the Study Group chose to use the definition of accountability provided by the Office of the Auditor General of Canada.<sup>3</sup>

Accountability is a relationship based on obligations to demonstrate, review, and take responsibility for performance, both the results achieved in light of agreed expectations and the means used.

The Auditor General's definition of accountability is linked with an accountability framework that consists of four elements:<sup>4</sup>

- (1) roles and responsibilities;
- (2) expected performance;
- (3) reporting requirements; and
- (4) mechanisms for review and adjustment.

The first element refers to the roles and responsibilities of the parties in an accountability relationship. There needs to be a clear understanding of the duties, obligations and related authorities of each party. Accountability is a two-way street and all parties to the accountability relationship have roles and responsibilities. As accountability relationships are not static, these roles and responsibilities will adapt to suit changes in social, economic and political circumstances.

The primary accountability relationship is the relationship between a First Nation government and its members. Both government and members have important roles to play in the accountability relationship. The members have a duty to engage: they select their government and are also responsible for any changes in that government. Therefore, they need to hold their government accountable by reviewing government performance and ensuring that their government will make any required adjustments to its performance. Otherwise, there will be no accountability and the government will have no legitimacy. The First Nation government has a responsibility to provide services and ensure the well-being of its members. The chosen government needs to make sure that the members of the First Nation understand the activities their government has undertaken and that they have an opportunity for input.

Similarly, with the relationship between the federal government and the First Nation, there is a need for the parties to understand their roles and responsibilities. Here, the emphasis is on federal funding and use of that funding by the First Nation for the purposes intended.

In the relationship between a First Nation and capital providers, the roles and responsibilities are more narrowly defined. Capital providers will assess the credit-worthi-

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<sup>3</sup> *December 2002 Report*, Chapter 9 (Ottawa: Office of the Auditor General of Canada, 2002), p. 1.

<sup>4</sup> Auditor General of Canada, *December 2002 Report*, Chapter 9, p. 8.

ness of the First Nation and provide capital accordingly. The First Nation will be required to repay the principal amount as well as interest on the principal.

The second element of the accountability framework, expected performance, refers to the need for parties to the accountability relationship to have mutually understood and accepted expectations. If expectations are not clear, it is difficult to determine whether or not performance was acceptable and whether it needs to be adjusted. Different accountability relationships will have different performance expectations. The challenge for a First Nations government will be to ensure that performance expectations are realistic and that expectations can be managed in a way that satisfies key accountability relationships.

The third element of the accountability framework is reporting requirements, which are the subject of this report. The accountability framework demonstrates that reporting requirements cannot be determined in isolation without considering: who is doing the reporting, who they are reporting to and what they are reporting on.

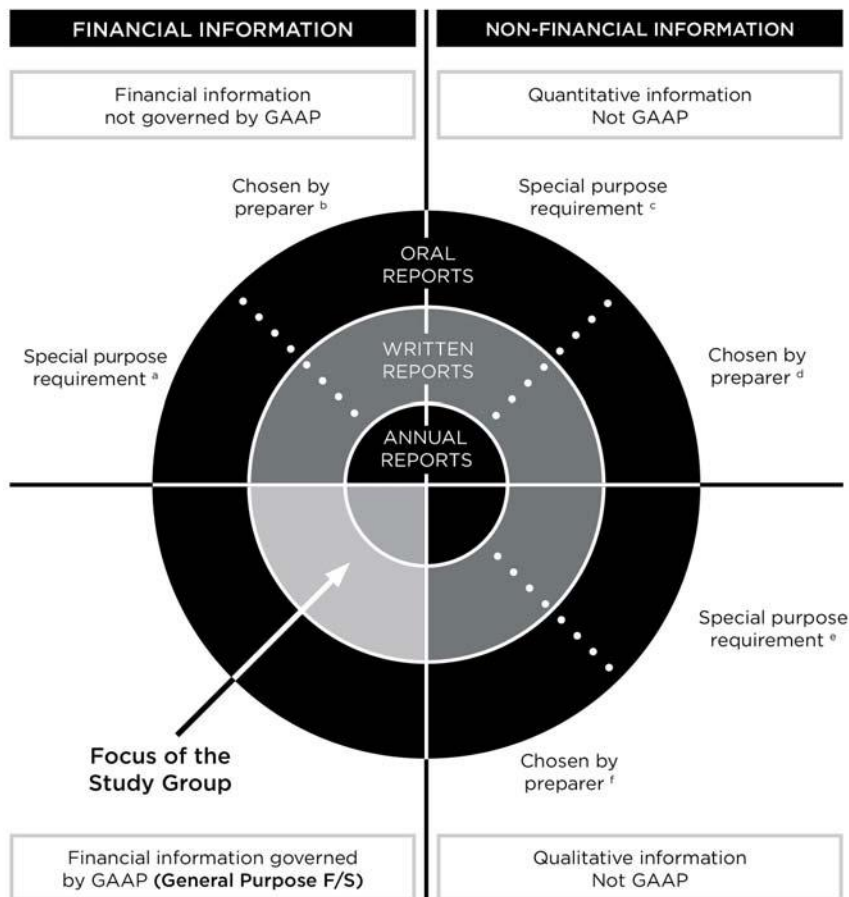
Mechanisms for review and adjustment constitute the fourth element of the accountability framework. This element deals with what is done with the reporting once it is produced and refers to the ways in which performance will be reviewed and adjusted. The accountability framework works in a circular fashion. Adjustment may mean adjustment in roles and responsibilities or in expectations. These adjustments should then be captured in the next round of reporting.

Differing roles and responsibilities and differing expectations will lead to different types of reporting. The form and information content of reporting depends on the nature of the relationships between First Nations governments and other parties. As introduced in Chapter 1, Exhibit 1 – Performance Reporting Model lays out the full scope of reporting for accountability purposes.<sup>5</sup> The following discussion reviews and elaborates on this model.

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<sup>5</sup> Although this exhibit is provided in the context of financial reporting by First Nations, its basic characteristics apply to accountability reporting by all organizations.

Exhibit 1—Performance Reporting Model



a, b, c, d, e, f For examples of the various types of reporting, see the discussion which follows.

Although reporting usually takes a written form, oral reporting is also used in a community setting, where leaders can make speeches to a general assembly<sup>6</sup> or reports can be delivered on a community radio station.<sup>7</sup> There is tremendous diversity among the mechanisms for delivering local accountability across the country.<sup>8</sup> The design and implementation of mechanisms must be left to the discretion of the community. Nevertheless, when an oral report presents the content of the financial statements, the delivery mechanisms must appropriately reflect what those financial statements contain.

Organizations usually make the annual report the centerpiece of their written forms of reporting. The annual report should include the financial statements and notes to the financial statements, as well as a variety of other information.

Accountability reporting provides both financial and non-financial information. Financial information includes the financial statements and notes to the financial state-

6 G. Cosco, *Accountability in a Contemporary First Nation Context: A Blending of Forms*, Unpublished PhD thesis (Edmonton: University of Alberta, 2005).

7 Auditor General of Canada, *December 2002 Report*, Chapter 1, p. 10.

8 D. MacKinnon, *Review of Literature on Fiscal Relationships* (Ottawa: Indian and Northern Affairs Canada, Research & Analysis Directorate, December 1998), p. 15.

ments, various schedules, budgets and other material stated in monetary terms. Some of the financial information is governed by GAAP, specifically the summary level financial statements and related notes. Other financial information, such as detailed product cost calculations or disclosure of salaries for top officials, is not governed by GAAP.

Non-financial information can be quantitative or qualitative. Ideally, non-financial reporting focuses on a government's strategic plan, what was achieved with the resources used and whether or not the plan was met. Quantitative non-financial information would include such items as: percentage of population completing high school and birth weight statistics. Qualitative non-financial information would include such descriptive items as rating safety issues as having "high," "medium" or "low" risk. Or, employment rates may be simply referred to as "improving," "staying the same" or "getting worse." Not only does non-financial information report on past performance, it also identifies areas that need to be addressed by future strategic plans.

Exhibit 1 contains three quadrants currently not governed by GAAP and, therefore, outside the scope of this report: (1) certain financial information (labeled a and b); (2) quantitative non-financial information (labeled c and d); and (3) qualitative non-financial information (labeled e and f). These quadrants have each been split into two parts: (a) special purpose requirement (labeled a, c and e); and (b) chosen by preparer (labeled b, d and f). It should be noted that the proportions of the exhibit are not meant to imply the extent of reporting in each area.

The following are examples of the types of non-GAAP information shown in Exhibit 1.

- Financial information – special purpose requirement (labeled a in Exhibit 1):
  - salaries of chief and band council as required by INAC's funding agreements;
- Financial information – chosen by preparer (labeled b in Exhibit 1):
  - cost per child of providing a hot lunch at school;
- Non-financial quantitative information – special purpose requirement (labeled c in Exhibit 1):
  - number of social assistance projects approved as required for INAC's *Social Assistance Annual Report*;
- Non-financial quantitative information – chosen by preparer (labeled d in Exhibit 1):
  - number of members who use the recreation centre on-reserve;
- Non-financial qualitative information – special purpose requirement (labeled e in Exhibit 1):
  - environmental site assessment report for CMHC funding; and
- Non-financial qualitative information – chosen by preparer (labeled f in Exhibit 1):
  - sketch of proposed health clinic.

Because the recommendations of the Study Group will focus on the general purpose financial statements governed by GAAP, it is important to differentiate general purpose financial statements from special purpose reporting. As well, it is useful to understand the nature of annual reports.



## GENERAL PURPOSE FINANCIAL STATEMENTS

General purpose financial statements are summary statements for an entity as a whole. They are prepared annually and present the financial position of the entity and its operations for the year then ended. General purpose financial statements are designed to serve a diverse group of external users who do not have the ability to demand the information they want. They will also meet many of the financial information needs of users who do have the ability to demand the information they want.

Because of the broad-based need for general purpose financial statements, they are the focus for standard setters in establishing GAAP for governments, not-for-profit and for-profit organizations. GAAP encompasses:<sup>9</sup>

broad principles and conventions of general application, as well as rules and procedures that determine accepted accounting practices at a particular time.

GAAP governs the format and content of general purpose financial statements and is based on certain objectives that are designed to meet the information requirements of the users of those statements.

General purpose financial statements should satisfy many of the needs of users in the three key accountability relationships: members of the First Nation; other levels of government; and capital providers. Although some First Nations may be reluctant to provide the full picture of their financial results, it is important for users, especially their members, to see summary statements that capture the complete range of activities of their government. General purpose financial statements are highly aggregated and, in most cases, should not reveal proprietary information. Nevertheless, there are concerns that providing the full financial picture of a First Nation to other levels of government may result in reduced funding levels. This is an issue between funding agencies and First Nations.

Because general purpose financial statements are highly aggregated, it is often not possible to determine the results of specific programs and service offerings. Segment disclosure should be provided in accordance with the *PSA Handbook* to outline the results of programs and services and provide more details. For example, government services and programs can be described separately from government business enterprises. Ideally, good segment disclosure can serve to meet additional user needs and thereby minimize the need for special purpose reporting.

The Auditor General has noted that First Nations may have to file up to five separate financial statements.<sup>10</sup> Ideally, requiring only a single set of general purpose financial statements would greatly minimize the reporting burden of First Nations.

## SPECIAL PURPOSE REPORTING

Wherever possible, it is cost-effective for preparers to limit the number of special purpose reports they issue and focus on the provision of general purpose financial statements instead. There are limits, however, to the audiences that general purpose reporting can reach and the information needs they can satisfy.<sup>11</sup> General purpose financial statements may be too complicated for some users and not specific enough for others. As well, they will not meet certain objectives such as demonstrating com-

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9 *PSA Handbook* Section PS 1150.03 (Toronto: Canadian Institute of Chartered Accountants).

10 Auditor General of Canada, *December 2002 Report*, Chapter 1, p. 21.

11 *Local Government Financial Reporting*, Research Study (Toronto: Canadian Institute of Chartered Accountants, 1985), p. 15.

pliance with fiscal, statistical and contractual requirements.<sup>12</sup> Nor will they necessarily meet the needs of certain lenders for detailed financial information on First Nations business enterprises. Therefore, other reports will be required, with their content depending on users' needs and relationship with a particular First Nation. These other reports are known as special purpose reports.

As Exhibit 1 illustrates, special purpose reports may include financial information not governed by GAAP. This information, which is usually more specific and is provided in addition to the general purpose financial statements, might include capital project costs or information on revenue streams. Special purpose reports may also include non-financial information not governed by GAAP. Such non-financial information may be quantitative or qualitative in nature and may be used, for example, to describe compliance with agreements, statutes and regulations.

Special purpose reports are based on contracts, covenants, legislation or mutual agreements reached by the parties in an accountability relationship and are designed to meet the unique needs of those parties. There is no standard form for special purpose reports and, therefore, it is not possible for GAAP to give guidance on how special purpose reports are to be prepared. Accordingly, the Study Group was unable to provide recommendations on special purpose reporting.

The Study Group does believe, however, that increased reliance on general purpose financial statements should reduce the need for special purpose reporting. A typical First Nation is required to file special purpose reports with several federal government departments including: INAC, Health Canada, HRSDC and CMHC. The 2002 Report of the Auditor General of Canada describes federal reporting requirements as a burden and estimates that First Nation communities must provide at least 168 reports annually.<sup>13</sup> The Report states that "Federal organizations need to review and better co-ordinate their reporting requirements."<sup>14</sup> Indeed, the 2002 report concludes:

Instead of information on narrowly-defined program activities, reporting needs to provide meaningful information to First Nations and to the federal government. Fundamental change is required....<sup>15</sup>

## **ASSURANCE ON GENERAL PURPOSE FINANCIAL STATEMENTS AND SPECIAL PURPOSE REPORTS**

Users want to know whether or not they can rely on the information provided in general purpose financial statements. In other words, they want to know if the information is credible. The management of a First Nation government prepares a written representation that it is responsible for the integrity of the financial statements. An independent audit opinion provides additional credibility and notifies users whether or not they can rely on the financial statements. A clean audit opinion means that the auditor is providing high level assurance that the information in the financial statements is presented fairly in accordance with GAAP.

In certain circumstances, users will also want to know whether or not they can rely on the information provided in special purpose reports. They may want the high-level assurance of an audit or they may be satisfied with the medium-level assurance of a review. As GAAP does not specify the nature of special purpose reports, auditors

<sup>12</sup> *20 Questions about Government Financial Reporting: Federal, Provincial and Territorial Governments* (Toronto: Canadian Institute of Chartered Accountants, 2003), p. 12.

<sup>13</sup> Auditor General of Canada, *December 2002 Report*, Chapter 1, p. 1.

<sup>14</sup> Auditor General of Canada, *December 2002 Report*, Chapter 1, p. 21.

<sup>15</sup> Auditor General of Canada, *December 2002 Report*, Chapter 1, p. 22.

must provide assurance that such reports have been prepared in accordance with the agreed upon form and content of the special purpose reports rather than GAAP. Details of the engagement and the extent of the audit work will depend on the nature of the information and the assurance needs of the user.

## **ANNUAL REPORTS**

Credible reporting must provide a comprehensive review of performance. Therefore, most governments in Canada issue an annual report to external users that fulfills information needs beyond the general purpose financial statements. The annual report should contain the general purpose financial statements as well as a range of other financial and non-financial information. Other financial information might include program level financial statements, detailed budgets and long-range comparative information. Non-financial information can be qualitative or quantitative and might include quantitative statistical information and communications from elected and appointed officials. Ideally, the annual report would refer to the government's strategic plan, what was achieved with the resources used and whether or not the plan was met.

Annual reports differ from special purpose reports, not only because they normally contain the general purpose, GAAP-based financial statements, but also because any additional information in the annual report is provided at the discretion of the report preparer. Information will be chosen based on the extent to which an organization wishes to be transparent, the messages it wishes to communicate and what it deems to be meaningful for users.

Increasingly, governments are including Financial Statement Discussion and Analysis (FSD&A) in their annual reports. PSAB provided guidance for preparing an FSD&A in SORP-1, "Financial Statement Discussion & Analysis." As explained earlier, SORPs (Statements of Recommended Practice) are not mandatory and they do not form part of GAAP. Instead, they offer general guidance on effective reporting. The FSD&A explains and highlights information underlying the financial statements:

FSD&A information also includes narrative explanations and graphical illustrations highlighting the key relationships that exist among the quantitative representations set out in the financial statements, as well as explanations and illustrations of variances and trends (SORP-1, "Financial Statement Discussion & Analysis," paragraph .06).

The FSD&A enhances users' understanding and enables them to make more informed decisions and judgments. As well, it enables governments to demonstrate accountability for the resources entrusted to them.

PSAB has also issued SORP-2, "Public Performance Reporting." This SORP addresses the non-financial performance information of a public performance report, as well as the linkage of financial and non-financial performance information. It offers guidance on linking the government's strategic plan with inputs, outputs and outcomes. In short, performance reporting indicates what was achieved with the resources used and whether or not the strategic plan was met.

Because the content of annual reports is left to the discretion of the report preparer, the Study Group did not provide any recommendations on annual reports prepared by First Nations except to suggest that preparers consider the guidance in SORP-1, "Financial Statement Discussion & Analysis," and SORP-2, "Public Performance Reporting."

## **SUMMARY**

This chapter laid out the accountability relationships for First Nations and the various users that make up these relationships. Three key accountability relationships were identified: members of the First Nation; other levels of government; and capital providers. There are, however, more than just these three types of users and this chapter outlined a broad range of accountability relationships and users. These relationships and users reflect the current social, political and economic circumstances of First Nations.

The chapter provides a Performance Reporting Model to describe the full range of reporting possible within an accountability relationship. Accordingly, the chapter pointed out the differences between general purpose financial statements and special purpose reporting. The content of annual reports was also discussed. Special purpose reporting, by its very nature, cannot be governed by GAAP. Therefore, this report is limited to general purpose financial statements.

General purpose financial statements should satisfy many of the needs of users in the three key accountability relationships of First Nations as well as those in other accountability relationships. Although there are concerns about the impacts of providing the full financial picture of First Nations, doing so is critical from an accountability point of view. It should also be more cost-effective. In the ideal, the distribution of general purpose financial statements should limit the number of special purpose reports required and, therefore, minimize the reporting burden of First Nations.



# Chapter 5 – Overview of Current Accounting Practices

*No Specific GAAP for First Nations – INAC’s Requirement for Information from Bands Operating Under the Indian Act – Observed Reporting Practice for Bands Operating Under the Indian Act – INAC’s Requirement for Information from Self-Governing First Nations – Financial Reporting Alternatives – Summary*

## NO SPECIFIC GAAP FOR FIRST NATIONS

This chapter outlines the following topics: the lack of explicit GAAP for First Nations; Indian and Northern Affairs Canada’s (INAC’s) requirements for information from bands operating under the *Indian Act* and self-governing First Nations; and financial reporting alternatives. The previous chapter laid out accountability relationships for First Nations and a general performance reporting model.

In Canada, the CICA’s Accounting Standards Board establishes GAAP for for-profit and not-for profit organizations, while the CICA’s Public Sector Accounting Board establishes GAAP for governments. Although there are many similarities among these three types of GAAP, there are also some striking differences.

Although GAAP for governments would be the logical first place to look for guidance on accounting for First Nations governments, the *Public Sector Accounting (PSA) Handbook* does not specifically refer to First Nations. The *PSA Handbook* defines what is included in the public sector as follows:

For purposes of applying these standards, “public sector” refers to federal, provincial, territorial and local governments, government organizations, government partnerships, and school boards.<sup>1</sup>

In the past, the *PSA Handbook* differentiated GAAP for local governments from GAAP for senior governments. First Nations are not covered under either type of government. Senior governments are defined as including provincial, territorial and federal governments. *PSA Handbook* Section PS 1700, “Objectives of Financial Statements – Local Governments,” paragraph PS 1700.02 (a) defines local governments as:

...municipal units established by provincial and territorial governments. They include: regional and metropolitan municipalities; cities; boroughs; towns; townships; districts; counties; rural municipalities and villages.

A footnote to this paragraph does say that the definition “does not preclude other entities, such as school boards, hospitals and colleges, from applying these Recommendations if, in their judgment, the Recommendations are considered appropriate.” This extension of the recommendations to schools, universities, colleges and hospitals applies to entities quite unlike First Nations.

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<sup>1</sup> Introduction, *PSA Handbook* (Toronto: Canadian Institute of Chartered Accountants), paragraph .03.

Reference to for-profit or not-for-profit GAAP also fails to yield any direct reference to First Nations. None of the three types of GAAP provides explicit reference to accounting standards that are appropriate for First Nations. This lack of GAAP has left First Nations and their auditors uncertain as to which set of standards to follow.

### **Accounting Standards for Indigenous Peoples Elsewhere**

The Study Group looked to see if other countries had accounting standards for Indigenous peoples, hoping that such standards could provide insights applicable to First Nations in Canada. The histories of Indigenous peoples in Canada, the United States, New Zealand and Australia are similar.<sup>2</sup> Due to an influx of immigration, each group declined in population, was displaced from their land and lost most of their political and social organizations.

There are no accounting standards developed specifically for Native Americans in the US. Instead, Native American tribes prepare their consolidated financial statements in accordance with financial standards set for state and local governments by the Government Accounting Standards Board (GASB).<sup>3</sup> The authority for use of GASB comes from the American Institute of Certified Public Accountants (AICPA), which directs Native American Tribes to follow GASB standards in the *AICPA State and Local Governments Audit and Accounting Guide*.

As well, there are no specific accounting standards for the Maori in New Zealand or Aboriginal peoples in Australia. Nor was there any indication of explicit reference to accounting standards found for these two groups.

In New Zealand, the Maori are guaranteed representation in the New Zealand national parliament based on population share.<sup>4</sup> There are no recognized Maori governments or recognized rights to self-government, nor do the Maori have any special fiscal relationship with the national government of New Zealand.

Australia's constitution does not recognize Aboriginal peoples<sup>5</sup> and, because no treaties were ever signed with them, Aboriginal peoples in Australia have no treaty rights or special status.

Therefore, there are no examples of accounting standards developed specifically for Indigenous peoples. There are, however, several examples of capacity building in the accounting area among Indigenous peoples.

### **Capacity Building for Indigenous Peoples**

Canada, the United States and New Zealand have established various initiatives for capacity building for Indigenous peoples in the accounting area. Capacity building initiatives range from special interest groups and targeted training programs to stand-alone associations and professional Aboriginal accounting designations.

In New Zealand, a National Maori Accountants Network was established as a special interest group of the New Zealand Institute of Chartered Accountants. This group has as its vision: "To contribute to the holistic well being of Maori." Among its several goals, the first one is "to provide meaningful opportunities that strengthens the de-

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2 *Indigenous Peoples and Fiscal Relationships – The International Experience* (Ottawa: Indian and Northern Affairs Canada, 1998), p. 1-6.

3 Conversation with Terry Patton, Research Manager, GASB, September 25, 2006.

4 *Indigenous Peoples and Fiscal Relationships*, pp. 2-9, 2-15 to 2-17.

5 *Indigenous Peoples and Fiscal Relationships*, pp. 4-38 and 4-43.

velopment of Maori Accountants.”<sup>6</sup> Given the extent of information on the website, it would seem that this network is in the early stages of development.

The Native American Finance Officers Association (NAFOA) in the US was formed in 1982 with the mission: “To improve the quality of financial and business management of tribal governments, their entities and their businesses.”<sup>7</sup> NAFOA has an annual conference, seminars, publications, newsletters and links to various types of resource material. A representative of the NAFOA sits on the Government Accounting Standards Advisory Council which, among other activities, is responsible for consulting with GASB on technical issues.

In 1999, the Aboriginal Financial Officers Association of Canada (AFOA) was established “to help Aboriginals better manage and govern their communities and organizations through a focus on enhancing finance and management practices and skills.”<sup>8</sup> The AFOA has eight regional chapters that provide workshops and conferences throughout the year. AFOA Canada hosts an annual conference, and provides a wide range of programs and services including *The Journal of Aboriginal Management*. AFOA Canada is unique in that it is the only Aboriginal management association in the world to have established a professional accounting designation, the Certified Aboriginal Financial Manager (CAFM). There is currently an articulation agreement between AFOA Canada and the Certified General Accountants Association of Canada to link the CAFM designation to the education leading to the CGA designation.

Despite these various advances in capacity building for Indigenous peoples, there is still much work to be done to ensure that individuals with accounting and finance roles in Indigenous communities have the necessary training and skills to contribute to strong management of their communities.

After reviewing GAAP for Indigenous peoples and capacity building on a global basis, the Study Group turned to an examination of INAC’s information requirements and current reporting practice for First Nations in Canada.

## **INAC’S REQUIREMENT FOR INFORMATION FROM BANDS OPERATING UNDER THE *INDIAN ACT***<sup>9</sup>

Because of the lack of explicit guidance, current financial reporting by most First Nations has been driven by the information needs associated with funding from INAC. Significant funding from INAC is provided to First Nations through transfer payments under the overall control framework managed by the Transfer Payments Directorate. There are two generic types of national model agreements for First Nations that do not have a self-government agreement:

- (1) the Comprehensive Funding Arrangement (CFA); and
- (2) the Canada/First Nations Funding Agreement (CFNFA).

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6 New Zealand Institute of Chartered Accountants, <http://www.nzica.com/NavigationMenu/AboutUs/Institute/SpecialInterestGroups/NationalMaoriAccountantsNetwork/default.htm> (accessed December 30, 2007).

7 Native American Finance Officers Association, <http://www.nafoa.org/about.php> (accessed December 30, 2007).

8 Aboriginal Financial Officers Association of Canada, <http://www.foa.ca/foa/index.asp> (accessed December 30, 2007).

9 Information in this section is largely derived from *Management Control Framework for Transfer Payments*, (Ottawa: Indian and Northern Affairs Canada, February 2006) and *Departmental Results-based Management and Accountability Framework (DRMAF) and Departmental Risk-based Audit Framework (DRBAF)* (Ottawa: Indian and Northern Affairs Canada, June 2005).



The Comprehensive Funding Arrangement is a one-year agreement that provides funding to recipients for the purpose of providing programs and services. Funding can be provided as a contribution (conditional, subject to audit, with reimbursement of actual expenditures); flexible transfer payment (formula-based with a focus on results); or grant (unconditional, subject only to meeting eligibility criteria). In most cases, it is a combination of all three.

The Canada/First Nations Funding Agreement is a five-year funding agreement that defines minimum delivery standards. Funding is provided for a mix of block-funded services and targeted programs. The band council can retain any unexpended block funding. This may or may not be the case for the portion of the agreement for targeted programs.

The Canada/First Nations Funding Agreement can include funding from other federal government departments in addition to INAC. The agreement will contain terms and conditions specific to the funding provided by each federal department. These other federal government departments typically include Health Canada, Human Resources Development Canada and Canada Mortgage and Housing Corporation.

Federal government funding creates an accountability relationship that necessitates financial reporting. It is a condition of both CFAs and CFNFAs that the First Nation supply the federal government with annual audited financial statements, prepared on a consolidated basis.<sup>10</sup> These agreements include not only requirements for reporting to the government and members of the First Nation but also provisions for intervention. INAC and any other federal government departments involved review the First Nations reports to identify whether funds were used for the purpose intended and whether programs and services were delivered in accordance with the terms and conditions of the funding arrangement. There are consequences if a First Nation does not fulfill the terms and conditions of the funding arrangement.

For example, should a First Nation default on its agreement, the relevant government department may require intervention or withhold funding. More specifically, intervention may take place when:

- the band council defaults on any of its obligations set out in the agreement or arrangement;
- the auditor gives a denial of opinion or adverse opinion on the financial statements;
- the financial statements indicate a cumulative operating deficit of eight percent or more of total annual operating revenue; or
- the health, safety or welfare of community members is being compromised.

Intervention may include appropriate notification and communication, meetings and discussions with the recipient First Nation and assessing the capacity and willingness of the First Nation to address and remedy the default. There are three levels of intervention: (1) the First Nation is asked to develop a “Remedial Management Plan”; (2) a co-manager is hired to assist the band council; and (3) a third party is appointed to administer the funding otherwise payable to the First Nation. Under third party management, any funding is administered by the third party manager and not the First Nation.

Thus, due to these funding agreements, INAC has significant information needs for decision-making purposes and requires First Nations funding recipients to provide general purpose audited consolidated financial statements as well as special purpose

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<sup>10</sup> *Evaluation of the Alternative Funding Arrangement (AFA) and Flexible Transfer Payment (FTP) Funding Authorities*, Project 01/21 (Ottawa: Indian and Northern Affairs Canada Corporate Services, December 2005).

reports. The nature of the general purpose financial statements and the special purpose reports is stipulated by the *Year-end Reporting Handbook for First Nations, Tribal Councils and First Nation Political Organizations*, dated November 2003.<sup>11</sup> In the absence of explicit Canadian accounting standards for First Nations, this *Handbook* has indicated that GAAP for First Nations general purpose financial statements must be based on the recommendations for local governments outlined in the *PSA Handbook*.

INAC's *Year-end Reporting Handbook* goes beyond the *PSA Handbook* and provides additional requirements over and above GAAP as to what is expected in the consolidated financial statements. The *Year-End Reporting Handbook* stipulates that certain funds should be used and be separately disclosed, where applicable, in the Member's Equity section of the Statement of Financial Position. These funds are:

- Equity in physical assets;
- Equity in trust fund;
- Equity in enterprise fund; and
- Equity in operating fund.

INAC's *Year-end Reporting Handbook* does not stop with the requirement of general purpose consolidated financial statements and the use of specific funds. The provision of additional financial schedules is stipulated as well. Because these schedules are not required by the *PSA Handbook*, they are special purpose information sought by INAC. These schedules include, for example, information on program and service revenues and expenditures; information on salaries, honoraria, travel expenses and other remuneration for senior officials; and a Schedule of Federal Funding.

Requiring special purpose information is not unheard of in the public sector. For example, in the province of Ontario, the *Public Sector Salary Disclosure Act* requires public disclosure of Ontario public sector employees who have been paid a salary of \$100,000 or more.<sup>12</sup>

INAC and other federal government departments also stipulate information needs in the *First Nations National Reporting Guide*. Although reports required by this guide are required as a result of the accountability relationship, they are special purpose reports and are typically non-financial in nature. Accordingly, these reports are beyond the scope of this report.

## **OBSERVED REPORTING PRACTICE FOR BANDS OPERATING UNDER THE *INDIAN ACT***

The Government of Canada is accountable to the public for the funds that it administers. This is why INAC requires First Nations to provide annual audited consolidated financial statements and a Schedule of Federal Government Funding. The *Year-End Reporting Handbook* points out that the government acknowledges and respects the confidentiality of First Nations' financial statements. Yet, at the same time, the government must report to the general public. Therefore, the *Year-end Reporting Handbook* requires the release of information indicating where public funds have been spent. This information is posted on the INAC website, First Nation Profiles, at [http://sdiproduct2.inac.gc.ca/FNProfiles/FNProfiles\\_home.htm](http://sdiproduct2.inac.gc.ca/FNProfiles/FNProfiles_home.htm). A First Nation can ei-

<sup>11</sup> In addition to financial reporting requirements, INAC has non-financial reporting requirements that are set out in INAC's *First Nations National Reporting Guide*.

<sup>12</sup> Ontario Ministry of Finance, Ontario's, Public Sector Salary Disclosure, <http://www.fin.gov.on.ca/english/publications/salarydisclosure/2006/> (accessed November 6, 2006).

ther agree to have its audited consolidated financial statements posted or, if it prefers, only the Schedule of Federal Government Funding.

A review of this website reveals a great diversity in financial reporting practices among First Nations. Following are a few examples of current practice:

- *Presentation of assets and liabilities*  
Under the local government model, financial assets should be separately identified. Many financial statements surveyed on the web site did not specifically identify financial assets. Instead, they grouped assets and liabilities as to whether they were current or long-term.
- *Capitalization and amortization of capital assets*  
The local government reporting model does not provide direction on accounting for capital assets, other than to indicate that the financial statements should provide information about physical assets. Many financial statements surveyed on the web site provided a balance for capital assets at amortized cost on the Statement of Financial Position. Such statements tended to record the amortization of the capital assets as a decrease in the capital asset equity account.
- *Budget information*  
A comparison of actual results with the budget is generally provided in supporting schedules to the financial statements but not at the summary financial statement level.

## INAC'S REQUIREMENT FOR INFORMATION FROM SELF-GOVERNING FIRST NATIONS

For First Nations that have negotiated a self-government agreement with the Government of Canada, government funding is provided under a grant-based five-year Self-Government Financial Transfer Agreement (SGFTA) or Fiscal Financing Agreement (FFA). Under these agreements, audited financial statements have to be filed with the federal and provincial or territorial governments.

INAC's *Year-end Reporting Handbook* does not apply to self-governing First Nations. Instead, the requirements for financial reporting by those First Nations are outlined in the respective self-government agreements or fiscal financing agreements. These agreements tend to refer to audited financial statements prepared in a manner consistent with standards generally accepted for governments in Canada. For example, the Little Salmon/Carmacks First Nations Self-Government Agreement<sup>13</sup> and the Kluane First Nation Self-Government Agreement<sup>14</sup> both contain the following language regarding financial accountability: the First Nation "shall prepare, maintain and publish its accounts in a manner consistent with the standards generally accepted for governments in Canada."

As a further example, under the Nisga'a Final Agreement:<sup>15</sup>

The Nisga'a Nation will have a Nisga'a Constitution, consistent with this Agreement, which will...(l.) require a system of financial administration comparable to standards generally accepted for governments in Canada, through which Nisga'a

13 Indian and Northern Affairs Canada, The Little Salmon/Carmacks First Nation Self-Government Agreement Among The Little Salmon/Carmacks First Nation and Her Majesty the Queen in Right of Canada and The Government of the Yukon, [http://www.ainc-inac.gc.ca/pr/agr/slmon/lssga\\_e.pdf](http://www.ainc-inac.gc.ca/pr/agr/slmon/lssga_e.pdf) (accessed September 24, 2006), p. 23.

14 Indian and Northern Affairs Canada, The Kluane First Nation Self-Government Agreement Among Kluane First Nation and Her Majesty the Queen in Right of Canada and The Government of the Yukon, [http://www.ainc-inac.gc.ca/pr/agr/klu/sgj\\_e.pdf](http://www.ainc-inac.gc.ca/pr/agr/klu/sgj_e.pdf) (accessed September 24, 2006), p. 31.

15 Indian and Northern Affairs Canada, Nisga'a Final Agreement, [http://www.ainc-inac.gc.ca/pr/agr/nsga/nisdex12\\_e.pdf](http://www.ainc-inac.gc.ca/pr/agr/nsga/nisdex12_e.pdf) (accessed November 11, 2006), pp. 160-161.

Lisims Government will be financially accountable to Nisga'a citizens, and Nisga'a Village Governments will be financially accountable to Nisga'a citizens of those Nisga'a Villages.

The Nisga'a Nation Fiscal Financing Agreement sets out that:<sup>16</sup>

All accounts and financial statements required to be prepared under this Agreement will be prepared in accordance with generally accepted accounting principles.

It goes on to state that:

The Nisga'a Nation will: (a) within five months following the end of each fiscal year provide Canada and British Columbia with audited financial statements for the fiscal year for the Nisga'a Nation and each Nisga'a Village prepared to a comparable standard to that generally accepted for governments in Canada.

Self-governing First Nations are also required to provide special purpose reports to the federal and provincial or territorial governments. Again, the requirements for such special purpose reports are detailed in the First Nation's Self-Government Agreement or Fiscal Financing Agreement.

These various self-government agreements do not seem to indicate if the generally accepted standards for government are accounting standards for local governments or senior governments. Given changes to GAAP, this will no longer be an issue for fiscal years beginning on or after January 1, 2009. At that time, the reporting model for local governments will be the same as that for senior governments (provincial, territorial and federal governments). This model is referred to as the common government reporting model in this report.

## FINANCIAL REPORTING ALTERNATIVES

In making its recommendations, the Study Group had six reporting alternatives to choose from:

- (1) the common government reporting model under GAAP;
- (2) for-profit GAAP;
- (3) not-for-profit GAAP;
- (4) retaining the soon-to-be-outdated local government reporting model required by INAC's *Year-end Reporting Handbook*, although this would not be GAAP;
- (5) a mixture of accounting standards, which would not be GAAP; or
- (6) the development of accounting standards solely for First Nations.

### Existing GAAP Alternatives

The Study Group felt strongly that First Nations needed well-developed GAAP and began by examining all three types of existing GAAP: GAAP for governments, for-profit GAAP and not-for-profit GAAP. To facilitate the analysis, Table 1 – Types of GAAP lays out the differences between for-profit, not-for-profit and government organizations. Because GAAP is based on the characteristics of the reporting entity, the Study Group felt it was necessary to examine the different characteristics of all three types of organizations.

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<sup>16</sup> Indian and Northern Affairs Canada, Nisga'a Nation Fiscal Financing Agreement, [http://www.ainc-inac.gc.ca/pr/agr/nsga/pdf/fis1\\_e.pdf](http://www.ainc-inac.gc.ca/pr/agr/nsga/pdf/fis1_e.pdf) (accessed November 11, 2006), p. 20.

**Table 1 – Types of GAAP**

	<b>For-Profit</b>	<b>Not-for-Profit</b>	<b>Government</b>
<b>Purpose of Organization</b>	- sale of goods or services to customers	- provides services - usually operates in one main area: social, recreational, educational, professional, religious, health or charitable	- provides services to citizens and residents - has multiple social and economic objectives
<b>Financial Goal</b>	- maximize profit - earn return on investment - cannot tolerate deficit position for long	- break-even - cannot tolerate deficit position for long	- break-even - may have significant accumulated deficit
<b>Source of Revenue</b>	- customers	- donors (individuals and companies) - government grants - recipients of services (may not be on full cost basis)	- transfer payments - rate payers - economic activity
<b>Source of Capital</b>	- shareholders - debt	- some debt	- may have significant debt
<b>Use of Assets</b>	- generate revenue	- provide services	- provide services
<b>Disclosure of Budget Information</b>	- not disclosed publicly	- not required to be disclosed	- required to be disclosed
<b>Ownership</b>	- shareholders	- no owners - may have members	- no owners
<b>Accounting Emphasis</b>	- net income - financial health (ability to generate future revenue)	- annual surplus or deficit - financial health (ability to provide future services)	- annual surplus or deficit - accumulated surplus or deficit - net debt and change in net debt (ability to provide future services)

The Study Group recognized that certain First Nation government organizations have the characteristics of for-profit organizations. This would apply mainly to business enterprises set up to enhance economic development for the First Nation and generate own-source revenue. Indeed, some First Nations receive more revenue from economic development than they do from federal government transfers. Although First Nations governments will try and maximize profit from their economic development activities, this does not mean that a First Nation is a for-profit entity on an overall basis. A First Nation is a community of people. Those governing the community pursue economic activities with a goal of enhancing the well-being of the community rather than providing pro rata returns to shareholders based on ownership percentages.

As well, the Study Group noted that First Nations governments control other organizations that have the characteristics of not-for profit organizations. These would be, for example, organizations focused on social services and health and education programs. This does not mean that a First Nation is a not-for-profit entity on an overall basis. A First Nation does not operate with a single charitable objective and does not derive revenue from charitable donations. Instead, those governing a First Nation will typically have a range of objectives and a range of organizations and activities all di-

rected to operate for the ultimate benefit of members. Some of these organizations operate on a not-for-profit basis and some on a for-profit basis.

The Study Group felt strongly that First Nations are governments. The leadership is selected by the members of the First Nation and operates as a government having the well-being of members as the first and foremost objective. Therefore, the Study Group deliberated whether GAAP for governments would serve the purposes of financial reporting by First Nations governments.

The common government reporting model accommodates both for-profit and not-for-profit organizations within the reporting entity. Other governments have the same issues as First Nations when it comes to dealing with accounting for a variety of government organizations. The *PSA Handbook* currently indicates that each organization within a government reporting entity should use the GAAP that best suits it – whether for-profit, not-for-profit or government GAAP – for preparing its own financial statements.<sup>17, 18</sup> Appendix B provides a decision tree illustrating which GAAP to use. On consolidation, the overall government reporting entity will be consolidated using GAAP for governments. Given the ability to use the set of accounting standards that best suits individual organizations within a government, the Study Group felt that GAAP for governments should be able to accommodate the diversity of organizations within a First Nations government.

The Study Group noted that use of the common government reporting model should enhance comparability within First Nations governments as well as between First Nations and other governments. Comparability will permit users to extract the maximum amount of information for statistical and other analytical purposes. The Study Group also noted that general purpose financial statements prepared under the common government reporting model should serve many of the needs of key users, including federal government departments. Before further exploring GAAP for governments and its applicability to First Nations governments, however, the Study Group briefly considered other reporting alternatives.

### Other Reporting Alternatives

Effective for year-ends beginning on or after January 1, 2009, there will be only one common financial reporting model for all levels of government in Canada, from the smallest municipality to the federal government itself. If First Nations continued to follow the soon-to-be-outdated local government reporting model, as required by INAC's *Year-end Reporting Handbook*, they would no longer produce GAAP-based statements comparable to those of other governments. The Study Group thought that understandability and comparability were critical qualitative characteristics for all financial reporting. Additionally, unlike the local government model, the common government reporting model provides detailed guidance on the recognition and measurement of tangible capital assets. The Study Group felt that information on tangible capital assets was an important component of First Nations financial statements. Therefore, continuing to use outdated local government accounting standards was not seen as an option.

The alternative of having a mixture of accounting standards was based on the idea that the source and volume of revenue should determine accounting treatment. For

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17 The for-profit and not-for-profit accounting standards set by the CICA's Accounting Standards Board are laid out in the *CICA Handbook – Accounting*. These standards are continually being reviewed and readers are directed to the CICA website at [http://www.cica.ca/index.cfm/ci\\_id/17150/la\\_id/1.htm](http://www.cica.ca/index.cfm/ci_id/17150/la_id/1.htm) for further information.

18 *20 Questions about the Government Reporting Entity*, located on the PSAB website at [http://www.psab-ccsp.ca/index.cfm/ci\\_id/18656/la\\_id/1.htm](http://www.psab-ccsp.ca/index.cfm/ci_id/18656/la_id/1.htm), provides further information on the government reporting entity.

example, First Nations with substantial own-source revenue would use for-profit GAAP. First Nations that relied primarily on federal government transfers would use GAAP for governments. This alternative was rejected because it would be detrimental for comparability purposes and the Study Group felt that GAAP for governments appropriately accommodates different sources of revenue and different types of government organizations.

Users need to be able to understand and interpret financial statements. Having several versions of GAAP is detrimental to user understanding and comparability. The Study Group understands that there are many differences among individual First Nations as well as between First Nation governments and other governments. The Study Group did not believe that these differences warranted different accounting standards for different First Nations or accounting standards different from those of other levels of government. Accordingly, the Study Group rejected the development of a new set of accounting standards for First Nations. The Study Group noted that no other Indigenous peoples had created their own GAAP and that developing GAAP solely for First Nations would take decades to complete.

Having rejected all of the other alternatives, the Study Group concluded that it should test its thinking by exploring GAAP for governments in detail to confirm whether it applied to First Nations governments.

## SUMMARY

This chapter covers the current financial reporting practices of First Nations. Canada's various accounting standards for governments and for-profit and not-for-profit organizations do not explicitly include First Nations. The Study Group tried to find accounting standards established specifically for Indigenous peoples in other countries, but determined there were no such standards, although it did find examples of capacity building in the accounting area.

As a result of the lack of guidance, current financial reporting by First Nations has been driven by the information needs associated with INAC funding. INAC's funding agreements require accountability from recipients. As part of this accountability, First Nations operating under the *Indian Act* are directed to provide general purpose financial statements and special purpose reports as described in the *Year-end Reporting Handbook for First Nations, Tribal Councils and First Nation Political Organizations*, dated November 2003.<sup>19</sup> The *Year-end Reporting Handbook* indicates that financial statements should be prepared according to the recommendations for local governments as outlined in the *PSA Handbook*. The *Year-end Reporting Handbook* also makes some stipulations for financial statement presentation not necessarily required by GAAP.

Self-governing First Nations are typically directed by their self-government agreements to prepare financial statements in a manner consistent with the standards generally accepted for governments in Canada. These agreements do not indicate if that is GAAP for local governments or GAAP for senior governments.

In its making recommendations, the Study Group examined the following six reporting alternatives:

- (1) the common government reporting model under GAAP;
- (2) for-profit GAAP;

<sup>19</sup> In addition to financial reporting requirements, INAC has non-financial reporting requirements set out in INAC's *First Nations National Reporting Guide*.

- (3) not-for-profit GAAP;
- (4) retaining the soon-to-be-outdated local government reporting model required by INAC's *Year-end Reporting Handbook*, although this would not be GAAP;
- (5) a mixture of accounting standards, which would not be GAAP; and
- (6) the development of accounting standards solely for First Nations.

Because of the need for comparability and understandability, the Study Group rejected the non-GAAP alternatives as well as the development of accounting standards solely for First Nations. GAAP for governments can accommodate government organizations that need to use for-profit accounting standards as well as government organizations that need to use not-for-profit accounting standards. Therefore, the Study Group concluded that the common government reporting model seemed like the best alternative for First Nations and decided to proceed with an in-depth analysis of GAAP for governments to ensure that it was suitable for First Nation governments.





# Chapter 6 – First Nations Governments and the Common Government Reporting Model

*Common Government Reporting Model – Applicability of the PSA Handbook Financial Statement Concepts – Nine Characteristics of Government – Objectives of General Purpose Financial Statements – Four Financial Statements – Five Key Messages – Summary*

## COMMON GOVERNMENT REPORTING MODEL

In Chapter 5, the Study Group concluded that the common government reporting model seemed like the best alternative for First Nations and decided to proceed with an in-depth analysis of GAAP for governments to ensure that it was suitable for First Nation governments. This chapter provides that analysis.

A financial reporting model provides a set of rules, parameters and content for financial statements.<sup>1</sup>

At a minimum, a financial reporting model prescribes the number, type and format of the financial statements, what information those financial statements should report, when it should be reported and how, as well as the notes required to explain what has been reported in the financial statements.

As well, a financial reporting model dictates the basis of accounting to be used for the recognition of revenues, expenses, assets and liabilities in the financial statements.

Although the *Public Sector Accounting (PSA) Handbook* has had two reporting models, one for local governments and one for senior governments, the Public Sector Accounting Board (PSAB) concluded that the needs of financial statement users for all levels of governments were the same. Therefore, effective for fiscal years beginning on or after January 1, 2009, the financial reporting model for local governments will be the same as that for provincial, territorial and federal governments – there will be a single common reporting model for all levels of government in Canada.

The key differences between the current local government model and the current senior government model (i.e., now the common government model) are in the areas of: (1) the nature of financial statements provided; (2) accounting for tangible capital assets; and (3) the use of full accrual accounting.

The local government model requires three financial statements: a Statement of Financial Position; a Statement of Financial Activities; and a Statement of Changes in Financial Position. The common reporting model calls for four financial statements:

<sup>1</sup> *20 Questions about Government Financial Reporting: Federal, Provincial and Territorial Governments* (Toronto: Canadian Institute of Chartered Accountants, 2003), p. 10.

- Statement of Financial Position;
- Statement of Operations;
- Statement of Change in Net Debt (or Net Financial Assets if the government's financial assets exceeded its liabilities); and
- Statement of Cash Flows.

These statements must be structured in certain ways:

- The Statement of Financial Position must report both net debt (net financial assets) and accumulated surplus (deficit) calculated on a full accrual basis of accounting.
- The Statement of Operations reports the annual surplus (deficit) as the difference between revenues and expenses.
- The Statement of Changes in Net Debt (Net Financial Assets) highlights the effects of capital spending on net debt.
- The Statement of Cash Flows provides for a new capital category and allows the use of either the direct or the indirect method for presenting cash flows.

Current-year budget figures are to be provided on the Statement of Operations and the Statement of Changes in Net Debt (Net Financial Assets) for the same scope of activities and on a basis consistent with that used for actual results.

Statements prepared under the common government reporting model are not cast in the form of fund accounting and there are no equity accounts. This does not mean that a First Nation cannot continue to use funds to track programs and services. What it does mean is that, under PSAB GAAP, fund presentation is not allowed on the Statement of Financial Position. Public Sector Guideline 4 indicates that information on funds and reserves is presented only in the notes and schedules to the financial statements.<sup>2</sup> More details on the results of programs and services can be provided in segment disclosure as directed by the *PSA Handbook*.

*PSA Handbook* Section PS 3150, "Tangible Capital Assets," currently applies to senior governments. For fiscal years beginning on or after January 1, 2009, it will also apply to local governments. Tangible capital assets with useful economic lives extending beyond an accounting period are required to be capitalized and amortized. The asset should be shown on the Statement of Financial Position and the amortization should be accounted for as an expense in the Statement of Operations. Amortization reflects the historical costs of services an asset delivers and reinforces that tangible capital assets have a limited life that is used up in the provision of those services. The full cost of tangible capital assets should be capitalized and amortized regardless of how an asset was funded. Good stewardship of tangible capital assets requires separating the accounting for an asset from the financing of that asset. Prior to the effective date of this standard for local governments, the local government model did not require capitalization and amortization of tangible capital assets.

*PSA Handbook* Sections PS 1000, "Financial Statement Concepts," PS 1100, "Financial Statement Objectives," and PS 1200, "Financial Statement Presentation," have been amended to include local governments for fiscal years beginning on or after January 1, 2009. These three sections represent a reporting model based on full accrual accounting.

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2 *PSA Handbook*, PSG-4 Funds and Reserves (Toronto: Canadian Institute of Chartered Accountants).

Finally, as a result of the change to a common government reporting model, *PSA Handbook* Sections PS 1700, “Objectives of Financial Statements – Local Governments,” and PS 1800, “General Standards of Financial Statement Presentation – Local Governments,” will be withdrawn from the *PSA Handbook*.

Because the current local government model will soon no longer exist, there is a critical need for Indian and Northern Affairs Canada (INAC) to reconsider its requirements for information from bands operating under the *Indian Act*. To make its *Year-end Reporting Handbook* consistent with the changes in the *PSA Handbook*, INAC will need to update its *Handbook* and clearly differentiate between general purpose reporting and special purpose requirements. Otherwise, First Nations following INAC’s *Year-end Reporting Handbook* will no longer be in compliance with GAAP.

The Study Group took a four-step approach to the analysis of the common reporting model to determine its applicability to First Nations governments. The first three steps are addressed in this chapter as follows:

- (1) examine user information needs and general purpose financial statements as found in *PSA Handbook* Section PS 1000, “Financial Statement Concepts”;
- (2) evaluate the characteristics of government as found in *PSA Handbook* Section PS 1100.A, “Financial Statement Objectives, Appendix A – Unique Characteristics of Government”; and
- (3) examine *PSA Handbook* Sections PS 1100, “Financial Statement Objectives,” and PS 1200, “Financial Statement Presentation.”

The fourth step, the review of *PSA Handbook* Section PS 1300, “Government Reporting Entity,” is addressed in Chapter 7.

## **APPLICABILITY OF THE *PSA HANDBOOK* FINANCIAL STATEMENT CONCEPTS**

### **User Information Needs**

The Study Group referred to the *PSA Handbook* to determine if user information needs for other governments applied to First Nations governments. *PSA Handbook* Section PS 1000, “Financial Statement Concepts,” describes the needs of users as follows:

18. Users are interested in the state of a government’s finances, its financial viability both in the short and long term, its revenues and financing sources, the allocation and use of its economic resources, the nature and extent of its economic activities and the quality of its financial management. In particular, government financial statements need to report the information required by legislators and other users to help them make assessments and judgments concerning government financial operations and management.
19. More specifically, users look to financial statements to provide information about:
  - (a) the sources and types of government revenues;
  - (b) the allocation and use of economic resources;
  - (c) the cost of goods and services provided in the accounting period;
  - (d) the extent to which the costs of the period were met by the revenues of the period;
  - (e) the government’s financial position;

- (f) the stock, allocation and use of physical resources;
  - (g) the extent to which revenues were sufficient to meet expenditures;
  - (h) how the government financed its activities and how it met its cash requirements;
  - (l) actual results of activities of the period in comparison with those originally planned and those of past periods; and
  - (j) whether public economic resources were managed in accordance with legislative authorities.
- .20 Information in financial statements may be used for a number of diverse purposes depending on the interests of the users. For example, information presented in the financial statements, when used with other information, is useful in gaining an understanding of and assessing:
- (a) a government's ability to meet its financial obligations, both short- and long-term;
  - (b) a government's ability to maintain the level and quality of its services and to finance new programs;
  - (c) future tax and other revenue requirements;
  - (d) government spending priorities;
  - (e) the impact of government economic activities on the economy; and
  - (f) the performance of government in managing the economic resources for which it is responsible.

The Study Group concluded that these paragraphs from the *PSA Handbook* appropriately described the information needs of the full range of users of First Nations financial statements.

### **General Purpose Financial Statements**

The Study Group also referred to the *PSA Handbook* to determine if the description of general purpose financial statements for other governments applied to general purpose financial statements for First Nations governments. *PSA Handbook* Section PS 1000, "Financial Statement Concepts," describes general purpose financial statements as follows.<sup>3</sup>

- .12 Summary financial statements cannot be expected to fulfill all of the users' needs served by a government's financial reporting system. Governments produce many kinds of financial reports in addition to financial statements. For example, there are reports prepared by individual entities to comply with legislation; there are reports to measure and report on the performance of individual programs and activities; and there are special purpose reports designed to meet particular needs of specific users. In addition, governments set out their fiscal plan in budgets and estimates of expenses or expenditures. Some information, such as related performance information and narrative explanations, can only be provided in other financial reports or as supplementary information to the financial statements themselves. Thus, certain information is better provided, or can only be provided, by financial reports other than summary financial statements.
- .13 Nevertheless, summary financial statements are a central feature of government financial reporting. They serve as a means by which a government provides an accounting of its administration of public financial affairs and resources. These financial statements are a principal means of communicating

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<sup>3</sup> *PSA Handbook*, Section PS 1000.

financial information to those not involved in the government's financial administration and present aggregated information capable of integration with other financial statements, schedules and reports provided by the government. Because of this key role, the objectives of government financial statements (see *PSA Handbook* Section PS 1100, "Financial Statement Objectives") are a significant factor in the selection of accounting policies used in government financial reporting and in the determination of information required from the accounting system.

The Study Group felt this description of general purpose government financial statements applied to First Nations general purpose financial statements. Therefore, the Study Group proceeded to the second step of its analysis.

## NINE CHARACTERISTICS OF GOVERNMENT

*PSA Handbook* Section PS 1100.A, "Financial Statement Objectives, Appendix A – Unique Characteristics of Government," describes nine unique characteristics of government and what those characteristics mean for government financial reporting.<sup>4</sup> The Study Group reasoned that, if these characteristics applied to First Nations governments, it would be appropriate to apply the common government reporting model to First Nations governments. First Nations governments and the population levels of individual First Nations are relatively small. The Study Group noted that, for the most part, the nine characteristics were intended to apply not only to the senior (provincial, territorial and federal) levels of government but also to municipal governments, whether large or small.

### Analysis

In analyzing the nine unique characteristics of government, the Study Group found some overlap among the characteristics. For example, issues around reserve land related to characteristic #2 as well as characteristic #5. Therefore, discussion on certain issues can be found under more than one characteristic.

*#1 – Government's goal is to provide services and redistribute resources, not make a profit.*

*Analysis:* Resource redistribution refers to services provided by one level of government to another as well as to social and monetary assistance programs. Because of the size of First Nations governments,<sup>5</sup> the emphasis is on providing services rather than redistributing resources. Certain First Nations governments do, however, become involved in resource redistribution to other levels of government. This would involve the provision of services to municipalities. For example, Flying Dust First Nation (Saskatchewan) provides water to the town of Meadow Lake. Redistribution also occurs between First Nations and provincial governments. For example, Nisga'a Lisims Government transfers funds to the government of British Columbia for education. As far as making a profit, some First Nations derive more revenues from economic development activities than from federal transfers. Such First Nations may even provide distribution payments to their own members. Nevertheless, without a significant tax base, First Nations see economic development as a way to sustain programs and services for future generations. The goal of the government remains the provision of services and redistribution of resources.

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<sup>4</sup> *PSA Handbook*, Section PS1100.A.

<sup>5</sup> According to the Auditor General of Canada's *2006 Status Report*, Chapter 5, p. 147, about 60 percent of First Nations communities have less than 500 residents.

*Conclusions:* It is important for users to know whether a First Nation government can afford current services and meet the needs for new services as they arise. It is also important for users to have information on social and monetary assistance programs. Stewardship of resources is important information that is reflected in the financial statements and elsewhere in the performance reporting model in Exhibit 1, shown in Chapters 1 and 4.

*Reporting Implications:* Both the **net cost of services** and affordability of services and the **net economic resources (net assets)** available for providing services should be reported in First Nations financial statements.

*#2 – Most government tangible capital assets are different in nature than those held by a business.*

*Analysis:* Most government tangible capital assets represent the ability to provide services rather than a source of economic cash flows. It is helpful to think of tangible capital assets and other non-financial assets as a government's future service potential. With governments, it is important to distinguish between financial assets and non-financial assets. Financial assets can be used to settle liabilities or provide services while non-financial assets can only be used to provide services unless they are sold and converted into financial assets. This analysis applies to governments in general as well as to First Nations governments. It should be noted that First Nations have different issues with regard to land than other governments do. These issues revolve around rights and claims concerning territorial land and treaty settlement land. Title to reserve land vests with the federal government and is held by the Crown for the use and benefit of First Nations.

*Conclusions:* It is important for users to easily determine the extent of financial and non-financial assets. Financial statements from First Nations should make this distinction.

*Reporting Implications:* **Financial assets** and **non-financial assets** should be reported separately on the Statement of Financial Position. Both the **net debt (net financial assets)** of the government and the **net economic resources (accumulated surplus or accumulated deficit)** should be reported on the Statement of Financial Position. These two measures represent different perspectives on the government's financial position, and both of them are important to users of financial statements produced by First Nations.

*#3 – Government capital spending may not focus on maximizing financial return because government objectives are broader.*

*Analysis:* A business is interested in what acquired capital can produce in the way of cash flows. Although the extent of cash flows from business enterprises may be significant for a First Nations government, as with other governments, capital is used to achieve many different goals and to provide a broad range of services. Business enterprises controlled by a First Nation may emphasize maximizing financial returns but that is the goal of those specific business enterprises and does not represent the overall objective of the First Nation government.

*Conclusions:* Capital spending may be used to fulfill a number of government objectives. It is important that users obtain information on how capital is spent and what the impact is on a First Nation.

*Reporting Implications:* **Capital spending** and its effect on **net debt** must be highlighted in the financial statements provided by First Nations.

*#4 – The principal source of revenue for governments is taxation.*

*Analysis:* First Nations have the ability to create by-laws to tax their own members on-reserve. Other levels of government, however, have to relinquish taxation authority to provide First Nations with the opportunity to tax non-members living on-reserve or, for that matter, members living off-reserve. This necessitates accommodation and agreement between First Nations and other levels of government. It remains to be seen what role First Nations will have in sharing taxation jurisdiction in Canada. Any changes from the status quo will first have to be accepted by the members of First Nations. Currently, there is some ability for First Nations to negotiate with the federal government on the sharing of revenue from GST. As well, some First Nations have implemented property taxation. Although taxation revenue is growing, the principal source of revenue for most First Nations still tends to be funding from the federal government. For some First Nations, economic development and government owned enterprises provide the principal source of revenue.

*Conclusions:* Regardless of the source of revenue, First Nations are constituted, first and foremost, as communities with representative governments and not as for-profit businesses. The primary goal of a First Nation government is to improve the well-being of its members. It is important for users to understand the affordability of current and future government spending.

*Reporting Implications:* **Net debt** is an important indicator because it represents the future revenue requirements that a First Nation has based on past transactions. It also indicates how much more a First Nation can spend on programs and services.

*#5 – Senior governments hold assets acquired in the right of the Crown.*

*Analysis:* For First Nations operating under the *Indian Act*, reserve land is Crown land, held in trust by the federal government. The value and use of these lands is not typically reflected in First Nation financial statements. This is the same accounting treatment for Crown land held by the provincial, territorial or federal government. As with other governments, for land to be valued and recognized in financial statements, a First Nation must acquire it in a third party transaction. Land acquired in a third party transaction may be maintained as fee simple land. Such land has a transaction value and is clearly controlled by the First Nation and can, therefore, be recorded as an asset. There may come a time when a First Nation exerts territorial claim and is recognized to have control of additional land. Depending on the circumstances, there may be a need to record this land as an asset. There will be several factors to consider and it will be necessary to review first principles before determining the appropriate accounting treatment. Of course, there are those that would argue that the relationship that First Nations have with their territorial land has a cultural value that transcends any economic value.

*Conclusions:* As with Crown assets held by other governments, there are issues regarding the measurement and valuation of First Nations lands. It is not within the scope of any of our current financial reporting models to recognize such assets in financial statements unless acquired in a third party transaction. It is possible and helpful, however, to disclose the existence of these assets as a way of assisting users in understanding the government's total economic resources and its stewardship over traditional lands.



*Reporting Implications:* Under our current accounting framework, a transaction price is required to value tangible capital assets. Because reserve land does not usually have a modern-day transaction price, it cannot be valued and, therefore, is not recognized in First Nations financial statements. Land that is purchased by a First Nation in a third party transaction will, however, have a value based on the transaction and can be recognized as an asset in the financial statements as long as it meets the definition of an asset. Whether land is recognized in the financial statements or not, stewardship of the land will be critical to the users of the financial statements. Therefore, it is important to provide disclosure about the nature and extent of land held by a First Nation. This treatment is consistent with other governments and Crown land.

*#6 – Governments operate in a non-competitive environment.*

(Some government business enterprises do operate in a competitive environment. For the purposes of their own financial statements, such enterprises would follow the accounting standards in the *CICA Handbook – Accounting* for profit-oriented enterprises.)

*Analysis:* Many government programs and services lack a competitive market, which means that they are unlikely to be delivered by any organization other than the government. As a result, even though it is possible to cost the services, there is no independent indication of the value of those services.

*Conclusions:* First Nations are similar to other governments in that they are often the sole provider of many programs and services. In certain situations, First Nations governments may compete with other governments for revenue (for example, grants and taxation rights), provision of services (for example, education) and inputs (for example, teachers). The benefits of these programs and services will not be completely captured by a bottom line that shows net revenue or expenses because financial statements are limited to financial information. Therefore, the benefits of First Nations government programs and services need to be addressed in performance reporting and should be linked to outputs and outcomes that are usually best measured in non-monetary terms. What should be reflected in the financial statements is the cost of programs and services.

*Reporting Implications:* For users to monitor the efficiency and effectiveness of First Nations governments, **Net cost of services** should be shown in the financial statements. This will indicate the affordability of services. Information on the benefits of such services to the First Nation needs to be provided through performance reporting, which would supplement the financial statements.

*#7 – A government's budget portrays public policy, establishes estimates of revenue, expense, expenditure and financing requirements and is an important part of the government accountability cycle.*

*Analysis:* Budgets serve to communicate a government's policies and financial plans and, therefore, are important for all types of governments, including First Nations. A budget indicates to the user the type and level of program services that are to be provided and the anticipated sources of revenue and financing needs for those program services. Budgets also serve as part of the accountability process. Users can use budgets to evaluate how well a government has achieved its plan. Therefore, it is important to provide original approved budget information along with the actual results. Although the practice of budgeting is common in First Nations governments, budgets are not always shared with the members. The Study Group noted that First

Nations have limited discretion in allocating financial resources as there is limited flexibility in the use of federal funding.

*Conclusions:* The budget has useful information for determining what a First Nation government plans to do and, at year end, how well the First Nation government has succeeded in fulfilling its plans. For some First Nations, the extent of transfer payments and their restricted use tends to drive the budgeting process and affect its stability. Revenue streams from federal transfers are not always predictable, which can create budget variances that need to be explained.

*Reporting Implications:* Budget information should be provided in First Nations financial statements. This information should include **actual-to-budget comparisons** so that users may evaluate the performance of the First Nation government.

*#8 – Some governments have debt capacities unparalleled by most other organizations in Canada.*

*Analysis:* Although First Nations may use debt for commercial purposes, developing infrastructure and safeguarding revenue flows, they are less able to provide security for debt than other governments can. The *Indian Act* prevents reserve land from being used as security for borrowing purposes. As well, First Nations have limited taxation abilities and, therefore, limited ability to use taxation revenue streams. Nevertheless, First Nations are beginning to establish debt capacities for developing their infrastructure through the assistance provided by the First Nations Fiscal Institutions Initiative and the First Nations Finance Authority. Debt is currently not as significant in understanding the financial position of most First Nations compared to other governments. This is expected to change in the future as First Nations increasingly issue debt for various purposes.

*Conclusions:* Although not currently a key aspect of financial position, financial statements do need to present debt as it will become increasingly important to First Nations. High debt levels will affect the ability of a government to provide programs and services on an ongoing basis.

*Reporting Implications:* Any **debt** and **net debt** should be reflected in the financial statements of First Nations.

*#9 – Governments are held to a higher standard of accountability than a business or a not-for-profit organization.*

*Analysis:* Because First Nations governments are chosen by their members and are, therefore, accountable to their members, it is necessary that their financial statements demonstrate a broader public accountability than what would be expected from a for-profit business. This accountability is demonstrated by transparency. Some argue that First Nations governments are even more accountable than other governments given their accountability relationship with the federal government. As well, in many First Nations, the members have the ability to approach their leadership directly.

*Conclusions:* The governing body of *Indian Act* and self-governing First Nations controls the resources for all members of a First Nation. This control means that the government is accountable on many levels and the financial statements need to fulfill that accountability by being transparent, clear and complete.

*Reporting Implications:* The financial statements of a First Nation should provide complete information about its financial position and results. Each financial state-

ment should convey clear, key messages about the finances of the First Nation’s government.

### **Applicability to First Nations Governments**

The Study Group acknowledges that First Nations are not homogenous. There are many differences among First Nations based on population size, history, geography, culture, language, socio-economic conditions, treaty rights and circumstances, internal capacity, vision and priorities. Nevertheless, the Study Group examined the applicability of the nine characteristics of government by considering First Nations overall. The Study Group concluded that there are differences between First Nations and other governments:

- First Nations have a stronger relationship with their land base, most of which is reserve land held in trust by the federal government.
- Taxation revenue is not a major source of revenue for most First Nations. Depending on the First Nation, either federal government transfers or profits from economic enterprises will be the main source of revenue.
- First Nations do not have the same capacity to issue debt as most other governments have. This is changing, however, especially given the First Nations Fiscal Institutions Initiative and the ability for First Nations to issue infrastructure debt.
- First Nations differ from other governments in the extent to which they have assets held in trust for them by the federal government. This applies to reserve land and a variety of financial trusts.

The ideas of traditional land and resources are not explicitly part of the current historical cost accounting model. The financial concepts found in *PSA Handbook* Section PS 1000, “Financial Statement Concepts,” should provide the basic principles to reason out the accounting treatment for the unique circumstances of First Nations. Accountability for traditional land and resources is important whether or not such collective rights are recognized in the financial statements of a First Nation government. Regardless of financial statement recognition, under the Performance Reporting Model, traditional lands and resources should be reported on to all members of a First Nation.

The Study Group acknowledged that there were differences between First Nations governments and other governments and that there were also differences among First Nations. They noted that the same could be said about local governments and the federal government of Canada. Despite the different scale of these governments, they share a common GAAP. Therefore, despite the differences, from an accounting perspective, the Study Group found that the characteristics of government in general, as described in *PSA Handbook* Section PS 1100.A, “Financial Statement Objectives, Appendix A – Unique Characteristics of Government,” applied to First Nations governments as well. Because these characteristics apply to First Nations governments, the Study Group proceeded with the third step of its analysis and explored the suitability of the financial statements required under the common government reporting model.

## **OBJECTIVES OF GENERAL PURPOSE FINANCIAL STATEMENTS**

The common government reporting model is based on the characteristics of government discussed above. These characteristics differentiate governments from profit and not-for-profit entities. As a result, the financial reporting model for governments

has different objectives for general purpose financial statements. These objectives are spelled out in the *PSA Handbook* as follows:<sup>6</sup>

**Objective 1**

Financial statements should provide an accounting of the full nature and extent of the financial affairs and resources which the government controls, including those related to the activities of its agencies and enterprises.

**Objective 2**

Financial statements should present information to describe the government's financial position at the end of the accounting period. Such information should be useful in evaluating:

- (a) the government's ability to finance its activities and to meet its liabilities and contractual obligations; and
- (b) the government's ability to provide future services.

**Objective 3**

Financial statements should present information to describe the changes in a government's financial position in the accounting period. Such information should be useful in evaluating:

- (a) the sources, allocation and consumption of the government's recognized economic resources in the accounting period;
- (b) how the activities of the accounting period have affected the net debt of the government; and
- (c) how the government financed its activities in the accounting period and how it met its cash requirements.

**Objective 4**

Financial statements should demonstrate the accountability of a government for the resources, obligations and financial affairs for which it is responsible by providing information useful in:

- (a) evaluating the financial results of the government's management of its resources, obligations and financial affairs in the accounting period; and
- (b) assessing whether resources were administered by the government in accordance with the limits established by the appropriate legislative authorities.

These different objectives for government reporting call for four financial statements with five key messages for users.

## FOUR FINANCIAL STATEMENTS

Under the common reporting model, all governments in Canada are directed to prepare four statements that make up a complete set of financial statements:

- Statement of Financial Position;
- Statement of Operations (or Annual Results);
- Statement of Change in Net Debt (Net Financial Assets); and
- Statement of Cash Flow (presented using the direct or indirect method).

Because of the different nature of governments, these statements differ from for-profit and not-for-profit statements. The Statement of Change in Net Debt is

<sup>6</sup> *PSA Handbook*, PS 1100, paragraphs .16, .20, .36 and .61, respectively.

unique to government reporting and plays an important role in explaining planned and actual capital spending. Both the Statement of Operations and the Statement of Changes in Net Debt include budget numbers to allow users to compare plans for revenues, expenses and spending with actual results. This is an important component of accountability to users.

The Study Group felt it would be helpful to see what a set of financial statements for a First Nation government would look like under the common government reporting model.<sup>7</sup> A sample set of financial statements is presented in Appendix C. This set of statements illustrates that there are no funds presented on the face of the financial statements and there are no equity accounts. (Currently, INAC requires First Nations to follow fund accounting with equity accounts for financial statement presentation.) If a First Nation wishes to maintain its books and records in the form of funds, it can continue to do so. Under the common government reporting model, information on funds is to be disclosed separately in the notes to the financial statements and cannot appear on the face of the Statement of Financial Position. Segment disclosure is useful in presenting the various programs and service activities of the government and is discussed briefly in Chapter 7.

## FIVE KEY MESSAGES

These four statements provide five key messages about a government's financial situation:<sup>8</sup>

1. **Net debt (net financial assets)** is the amount remaining after all liabilities are subtracted from total financial assets. This amount is shown in the Statement of Financial Position. If a government has more financial assets than liabilities, it will be in a position of net financial assets. If there are more liabilities than financial assets, the government is in a net debt position. Because most governments have more liabilities than financial assets, this figure is usually just referred to as “net debt.” The net debt amount indicates the amount of future revenues that a government will need to pay for past transactions.
2. **Net economic resources**, also known as **accumulated surplus (accumulated deficit)**, shows the difference between all assets (financial and non-financial) and liabilities as a separate number in the Statement of Financial Position. Non-financial assets include tangible capital assets, which are recorded at cost and amortized as they are used. An accumulated surplus means that all assets are greater than all liabilities and the government has resources that can be used to provide future services. An accumulated deficit means that all liabilities are greater than all assets and that the government has been financing current and past services by borrowing. The extent of a government's accumulated surplus or deficit indicates the ability of the government to provide future services.
3. **Annual surplus (annual deficit)** indicates whether or not a government has maintained its net assets in a year. If government revenues equal government expenses, the annual result will be zero and the government will have maintained net assets. The annual surplus/annual deficit shows whether or not the revenues for the year were enough to cover the costs for the year. These costs include the cost of using capital assets to provide services. The annual surplus/annual deficit is shown as part of the Statement of Operations and is calculated using accrual accounting.

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<sup>7</sup> The sample statements prepared under the common government reporting model are not compared with statements prepared under the local government model. The Study Group felt that this would not be meaningful. As noted in Chapter 5, there is currently a great diversity in financial reporting practices among First Nations.

<sup>8</sup> 20 Questions about Government Financial Reporting, p. 21.

Under accrual accounting, the cost of a capital asset is allocated and recognized over the years that the capital asset is in use.

4. **Change in net debt** measures whether or not the revenue received during the year was enough to cover government spending for the year. Spending includes capital spending to acquire capital assets even though these assets have service potential that extends beyond the year. The change in net debt number also includes the sale of old capital assets during the year. The change in net debt is calculated by backing out accrual accounting allocations for use of capital assets as well as any gains or losses on the sale of capital assets or any write-downs of capital assets. An increase in net debt means that more future revenue will be needed to pay for past transactions. The Statement of Change in Net Debt will show actual capital spending and compare it to planned capital spending.
5. **Cash flow** information, shown in the Statement of Cash Flows, indicates the change in the amount of cash held from the beginning of the year to the end of the year. The statement also highlights the sources and uses of cash. Both the indirect and direct methods of presenting cash flow information are acceptable.

It is critical that users consider all five messages together to get a more complete picture of the financial position and financial results of a government's activities. For example, INAC will need to consider whether a cumulative deficit of eight percent or more of total revenue is an appropriate financial statement indicator or if a number of financial statement indicators need to be considered together for decision-making purposes.

Government financial statements must be structured with certain qualitative characteristics in mind:

- Relevance, which includes:
  - o predictive value and feedback value;
  - o accountability value; and
  - o timeliness.
- Reliability, which includes:
  - o representational faithfulness;
  - o completeness;
  - o neutrality;
  - o conservatism; and
  - o verifiability.
- Comparability.
- Understandability and clear presentation.

These qualities are not unique to government financial statements but rather apply to the financial statements of all types of entities. They are elaborated on further in Appendix D.

Also, a number of general reporting principles apply to government financial statements as well as to financial statements from other types of entities. For example, *PSA Handbook* Section 1200, "Financial Statement Presentation," paragraph PS 1200.022, reads: "Financial statements should be issued on a timely basis." These reporting principles are elaborated on further in Appendix E.

After reviewing the objectives and messages of government financial statements, the Study Group concluded that the common government reporting model, as reviewed thus far, applies to First Nations governments. Regardless of the relative extent of various sources of revenue, a First Nation government remains accountable to members and has the well-being of members as its primary goal. Therefore, GAAP for governments is appropriate. Issues regarding accounting for reserve land and assets held in trust by the federal government can be accommodated by the common government reporting model. As well, the model can accommodate varying levels of taxation revenue and debt.

## SUMMARY

The distinction between GAAP for local governments and GAAP for senior governments will no longer be relevant for fiscal years beginning on or after January 1, 2009. There will be only one common reporting model under GAAP that will apply to local, provincial, territorial and federal governments in Canada. This chapter began with a brief description of how the two models differ. It then specified the first three steps of the Study Group's analysis of the common reporting model to determine if GAAP for governments is suitable for First Nation governments.

The first step of the analysis was an examination of user information needs and general purpose financial statements as described in the *PSA Handbook* Section PS 1000, "Financial Statement Concepts." The Study Group determined that they applied to First Nations governments.

Then, the Study Group analyzed the extent to which the characteristics of government, as outlined in *PSA Handbook* Section PS 1100.A, "Financial Statement Objectives, Appendix A – Unique Characteristics of Government," applied to First Nations governments. Although First Nations governments are not homogeneous and differ in some respects from other governments, the Study Group concluded that, overall, from an accounting perspective, the characteristics apply to First Nations governments as well.

Given such a conclusion, the analysis proceeded to the third step. This included listing the objectives of government financial statements, indicating the four statements required for government reporting and discussing the five key messages contained in these statements. Mention was also made of the qualitative characteristics of information in the financial statements and general reporting principles. PSAB developed this reporting model after careful consideration of the characteristics of government and how governments differ from for-profit and not-for-profit organizations.

After completing the first three steps of the analysis, the Study Group concluded that the common government reporting model, as reviewed thus far, applied to First Nations governments. To apply the common government reporting model, it is important to define the reporting entity of a First Nations government and explore a number of related accounting issues. This will be dealt with in the next chapter as the fourth step of the Study Group's analysis of GAAP for governments and its applicability to First Nations governments.

# Chapter 7 – Reporting Entity, Consolidation, Other Accounting Issues and Applicability of the *PSA Handbook*

*Reporting Entity Defined – Determining Control – Consolidation of Government Organizations and Investments – Other Accounting Issues – Applicability of the PSA Handbook to First Nations – Summary*

## REPORTING ENTITY DEFINED

In Chapter 6, the Study Group concluded that the “Financial Statement Concepts” section of the *PSA Handbook* applied to First Nations, as did the “Unique Characteristics of Government,” “Financial Statement Objectives” and “Financial Statement Presentation” sections. In this chapter, the Study Group completes the final step of its analysis, reviewing the applicability of the concepts relating to “Government Reporting Entity” described in the *PSA Handbook* and some of the technical aspects associated with consolidation. To determine general applicability of the *PSA Handbook* to First Nations, the Study Group felt it was also important to look at a few additional areas, such as trusts, restricted assets, segment disclosures and revenue recognition for transfer payments. Although the Study Group did not review the *PSA Handbook* in its entirety, it reflected on a substantial portion, enough to conclude on the applicability of the *PSA Handbook* overall.

One of the objectives for general purpose financial statements was stated in Chapter 6 as follows:<sup>1</sup>

### **Objective 1**

Financial statements should provide an accounting of the full nature and extent of the financial affairs and resources which the government controls, including those related to the activities of its agencies and enterprises.

This chapter looks at what is meant by “the full nature and extent of the financial affairs and resources which the government controls.” This is known as the reporting entity.

One of the other objectives stated in Chapter 6 stressed that financial statements need to demonstrate the accountability of the government.<sup>2</sup>

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<sup>1</sup> *PSA Handbook* Section PS 1100.16 (Toronto: Canadian Institute of Chartered Accountants).

<sup>2</sup> *PSA Handbook* Section PS 1100.61.



#### Objective 4

Financial statements should demonstrate the accountability of a government for the resources, obligations and financial affairs for which it is responsible by providing information useful in:

- (a) evaluating the financial results of the government's management of its resources, obligations and financial affairs in the accounting period; and
- (b) assessing whether resources were administered by the government in accordance with the limits established by the appropriate legislative authorities.

If financial statements are to serve as means of fulfilling accountability relationships with members of a First Nation and other users, they must provide a full picture of a government's financial affairs and the stewardship of the resources entrusted to it.

First Nations governments carry out their policies, deliver services and manage resources through a variety of structures and organizations. Health services might be delivered on-reserve through an organizational unit that is integral to the operations of the government. Economic development may create infrastructure for others to develop their own economic activities. Or, economic development may take the form of stand-alone enterprises whose principal activity is carrying on a business. Such business enterprises may be structured as government-owned corporations, partnerships or joint ventures. Although a First Nation's business enterprises should have their own financial statements for accountability reporting purposes, it is necessary to have summary financial statements for the First Nation's government as a whole to provide a complete picture of the nature and extent of a government's financial affairs and resources.

As discussed in Chapter 5, the summary financial statements should be prepared using GAAP for governments. The common reporting model can accommodate different accounting treatment, as appropriate, for individual government organizations within an entity.

Some may argue, as discussed in Chapter 4, that not all users need a full picture of the financial position of a First Nation and that certain users should see only the financial results related to their specific interests. It would, however, be costly and confusing to produce individually tailored financial statements for all users. As far as including or not including certain types of revenue, the Study Group concluded that, for accountability purposes, users want to know the full picture of the resources a First Nation government has available. This means that all sources of revenue that are under a government's control should be included in a First Nation's financial statements.

With these conclusions in mind, the Study Group examined *Public Sector Accounting (PSA) Handbook* Section PS 1300, "Government Reporting Entity," to determine if the concepts contained in the standard applied to First Nations governments. The *PSA Handbook* indicates that a government reporting entity covered by a set of financial statements should comprise all activities and organizations controlled by that government.<sup>3</sup> Thus, the extent of a government reporting entity is determined by the existence of control.

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<sup>3</sup> *PSA Handbook* Section PS 1300.07.

The *PSA Handbook* defines control as: “the power to govern the financial and operating policies of another organization with expected benefits or the risk of loss to the government from the other organization’s activities.”<sup>4</sup>

There are a variety of ways to govern the financial and operating policies of an organization. For example:<sup>5</sup>

- (a) a government may establish an organization’s fundamental purpose and eliminate or significantly limit the ability of the organization to make future decisions by predetermining the financial and operating policies of the organization;
- (b) a government may direct the financial and operating policies of an organization on an ongoing basis; or
- (c) a government may veto, overrule or modify the financial and operating policies established by an organization.

Whether or not a government chooses to exercise its power is not the point. Control exists by virtue of the government’s ability to do so. Also, a government does not need to manage an organization’s activities on a day-to-day basis to control the organization. Determining control will depend on the nature of the relationship between the government and the organization. At one end of the continuum, it will be clear that an organization does not have the power to act independently and is controlled by the government. At the other end, the organization will have the power to act independently and, while the government may have some influence over the organization, it will be clear that it does not have control. Between these two end-points, it will be necessary to use professional judgment to determine whether or not control exists. The various criteria for determining control need to be considered for all organizations that the government is involved with regardless of their organizational structure.

## DETERMINING CONTROL

The *PSA Handbook* provides some more specific examples of indicators that provide more persuasive evidence of control:<sup>6</sup>

- (a) government has the power to unilaterally appoint or remove a majority of the members of the governing body of the organization;
- (b) government has ongoing access to the assets of the organization, has the ability to direct the ongoing use of those assets, or has ongoing responsibility for losses;
- (c) government holds the majority of the voting shares or a “golden share”<sup>7</sup> that confers the power to govern the financial and operating policies of the organization; and
- (d) government has the unilateral power to dissolve the organization and thereby access its assets and become responsible for its obligations.

Other indicators that may provide evidence of control exist when the government has the power to:<sup>8</sup>

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4 *PSA Handbook* Section PS 1300.08.

5 *PSA Handbook* Section PS 1300.14.

6 *PSA Handbook* Section PS 1300.18.

7 A golden share entitles the holder to specified powers or rights generally exceeding those of other shareholders.

8 *PSA Handbook* Section PS 1300.19.

- (a) provide significant input into the appointment of members of the governing body of the organization by appointing a majority of those members from a list of nominees provided by others or being otherwise involved in the appointment or removal of a significant number of members;
- (b) appoint or remove the CEO or other key personnel;
- (c) establish or amend the mission or mandate of the organization;
- (d) approve the business plans or budgets for the organization and require amendments, either on a net or line-by-line basis;
- (e) establish borrowing or investment limits or restrict the organization's investments;
- (f) restrict the revenue-generating capacity of the organization, notably the sources of revenue; and
- (g) establish or amend the policies that the organization uses to manage, such as those relating to accounting, personnel, compensation, collective bargaining or deployment of resources.

The Study Group concluded that defining a reporting entity based on control made sense for First Nations governments. To determine what structures and organizations are to be included in the financial statements of a First Nation, it is necessary to determine the existence of control, or lack thereof, over the various structures and organizations the First Nation's government uses to carry out policies, deliver services and manage resources. This then defines the First Nation government reporting entity.

## CONSOLIDATION OF GOVERNMENT ORGANIZATIONS AND INVESTMENTS

The Study Group continued to examine the *PSA Handbook* to determine if the accounting treatment for recognizing the reporting entity for other governments applied to First Nations governments. The *PSA Handbook* indicates that governments should be reporting on a consolidated basis by presenting summary information that aggregates the individual financial statements of all organizations comprising the reporting entity. Consolidation is a method of accounting that combines the accounts of those organizations line-by-line on a uniform basis of accounting and eliminates inter-organizational balances and transactions. The mechanics of preparing government consolidated financial statements are outlined in *PSA Handbook* Sections PS 2500, "Basic Principles of Consolidation," and PS 2510, "Additional Areas of Consolidation."

The *PSA Handbook* does make one exception for the full consolidation of government organizations, and that is for government business enterprises.<sup>9</sup> Government business enterprises are to use GAAP for the private sector for their own accountability purposes. This results in government organizations using two different sets of accounting principles: public sector GAAP and private sector GAAP. Accordingly, government business enterprises are to be accounted for by the modified equity method, which calls for including an enterprise's net income in a single line in the Consolidated Statement of Operations. The net asset position of the government business enterprise is also included in a single line on the Consolidated Statement of Financial Position. The modified equity method does not adjust the accounting principles of the government business enterprise to conform the results to the govern-

<sup>9</sup> *PSA Handbook* Section PS 1300.27.

ment's accounting principles. Instead, the government business enterprise's income and net asset position remain at the amounts determined based on for-profit accounting principles. The *PSA Handbook* provides guidance for this method in *PSA Handbook* Section PS 3070, "Investments in Government Business Enterprises."

A government business enterprise has all of the following characteristics:<sup>10</sup>

- (a) it is a separate legal entity with the power to contract in its own name and that can sue and be sued;
- (b) it has been delegated the financial and operational authority to carry on a business;
- (c) it sells goods and services to individuals and organizations outside of the government reporting entity as its principal activity; and
- (d) it can, in the normal course of its operations, maintain its operations and meet its liabilities from revenues received from sources outside of the government reporting entity.

To be classified as a government business enterprise, an organization should be able to maintain its operations and meet its liabilities from revenues received from sources outside of the government reporting entity. When determining if an organization can do this, the following factors should be considered:<sup>11</sup>

- (a) the organization's history of maintaining its operations and meeting its liabilities;
- (b) whether the organization would continue to maintain its operations and meet its liabilities without relying on sales to, or subsidies in cash or kind from, the government reporting entity;
- (c) past, present and future economic conditions within which the organization operates; and
- (d) whether the organization has realistic and specific plans that show how it expects to be able to maintain its operations and meet its liabilities in the future.

The *PSA Handbook* describes why different accounting treatment is appropriate for government business enterprises.<sup>12</sup>

A government business enterprise differs from other government organizations in its relationship to the government, and its objectives, and operations. A government enterprise represents a financial asset of the government and given its autonomy, business-oriented objectives, and financial self-sufficiency, equity accounting is appropriate.

Because a government enterprise carries on a business, its financial statements should be prepared on the same basis as a private sector business. This basis is most appropriate for measuring the government's investment in the organization and the impact it has on the government's financial position and results. As such, the modified equity method is the most suitable form of equity accounting.

Some First Nations governments will have significant own-source revenue from business enterprises. Such First Nation governments might argue that the modified equity method does not provide an adequate representation of the extent of their business enterprises and that some other presentation, perhaps even for-profit accounting standards, would be more suitable. The Study Group considered these con-

<sup>10</sup> *PSA Handbook* Section PS 1300.28.

<sup>11</sup> *PSA Handbook* Section PS 1300.31.

<sup>12</sup> *PSA Handbook* Section PS 1300.32 and PS 1300.34.

cerns carefully. It concluded that, although an emphasis on for-profit enterprises may play a significant role in a First Nation government, the government exists primarily to ensure the well-being of its members and not to generate profits. The profits generated by business enterprises controlled by a First Nation government are used to sustain programs and services for future generations. Therefore, using government GAAP for the overall entity is the most appropriate treatment. The *PSA Handbook* does outline disclosure requirements for government business enterprises in *PSA Handbook* Section PS 3070, “Investments in Government Business Enterprises,” and this should address the concerns about providing information to users. Appendix F illustrates some of the decision points associated with consolidating government organizations.

Governments may invest in organizations that do not form part of the government reporting entity because they do not control those organizations. Such long-term investments are called portfolio investments and would be accounted for by the cost method in accordance with *PSA Handbook* Section PS 3400, “Accounting for Portfolio Investments.”

*PSA Handbook* Section PS 3060, “Government Partnerships,” describes how to account for and report a government’s interest in government partnerships. The government’s share in a government partnership should be recognized in the government’s financial statements on a proportionate consolidation basis. If the partnership has the characteristics of a government business partnership, however, the government’s share of the partnership should be accounted for by the modified equity method.

The *PSA Handbook* does not explicitly refer to accounting for an interest in a joint venture or a variable interest entity. Accordingly, if guidance on these treatments is needed, it should be sought from alternate reliable sources such as accounting pronouncements produced by the CICA Accounting Standards Board.

The Study Group concluded that the consolidation treatments associated with government organizations and investments would also apply to First Nations governments.

## OTHER ACCOUNTING ISSUES

The Study Group felt that it was also important to look at a few additional areas to determine whether or not they applied to First Nations. These areas of the *PSA Handbook* include: trusts, restricted assets, segment disclosures and revenue recognition for transfer payments.

### Trusts

Trusts arise when there is a split in the legal and beneficial ownership of property. One party holds legal title to the property and is legally obliged to manage that property for the benefit of another party.<sup>13</sup> The *PSA Handbook* defines trusts as:<sup>14</sup>

property that has been conveyed or assigned to a trustee to be administered as directed by agreement or statute. In a trust relationship, the trustee holds title to property for the benefit of, and stands in a fiduciary relationship to, the beneficiary.

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<sup>13</sup> E.E. Gilless, *The Law of Trusts* (Toronto: Irwin Law, 1997), p. 5.

<sup>14</sup> *PSA Handbook* Section PS 1300.41.

As Chapter 5 noted, First Nations are different from other governments in that the federal government holds moneys on their behalf. The *Indian Act* distinguishes capital moneys from revenue moneys. Capital moneys are derived from the sale of surrendered lands or the sale of capital assets. Revenue moneys are all moneys other than capital moneys. Capital and revenue moneys are deposited in the Consolidated Revenue Fund of the Government of Canada and maintained in separate interest-bearing accounts, typically, with one capital account and one revenue account per First Nation.<sup>15</sup> Although the federal government legally manages these moneys, First Nations have access to them. In accordance with the regulations, First Nations can receive payments from these accounts when requested by a band council resolution and approved by the Minister or the Minister's delegate.<sup>16</sup>

The *Indian Act* places more restrictions on the use of capital moneys than it does on the use of revenue moneys. Section 69 of the act indicates that the Governor in Council may permit a band to control, manage and expend its revenue moneys. The *First Nations Oil and Gas and Moneys Management Act, 2005* reinforces this ability to control revenue moneys, and about two thirds of the First Nations in Canada are listed in the Schedule to the *Indian Band Revenue Moneys Order*, granting them this authority.

The government of Canada may create formal trusts on behalf of a First Nation, such as for the payment of settlement funds.

First Nation governments may also create other trusts to manage assets on their behalf. Such trusts would be established, for example, to manage financial assets arising from specific or comprehensive claim settlements or moneys received under the *First Nations Oil and Gas and Moneys Management Act*. Treaty Land Entitlement (TLE) Trusts are one example of a specific claim settlement. They relate to modern day settlement for land shortfalls in historical treaties. Trustees are often appointed to manage the financial settlement until land can be purchased.

Regardless of how a trust is created, the extent of control by the First Nation government must be assessed to determine if the trust assets should be reflected in the financial statements as assets of a First Nation government. If a First Nation controls the assets, they should be recorded in the financial statements. Given certain circumstances, it may be more appropriate to record an asset as a restricted asset. It is necessary to exercise professional judgment to determine if control exists. Whether or not trust assets are included in the financial statements, it would be important to provide note disclosure on those assets to inform the members of the First Nation.

The *PSA Handbook* specifically addresses trusts administered by a government rather than trusts administered on behalf of a government. Therefore, the Study Group was not able to compare First Nations governments with other governments in this regard. Instead, the criteria of control should be used as a guide as to whether or not trust assets administered by others should be included in the consolidated financial statements of a First Nation.

As far as trusts administered by a government are concerned, the *PSA Handbook* indicates that such trusts should be excluded from a government reporting entity. Of course, financial statements for these trusts would need to be prepared and disclosed separately from the reporting entity. The Study Group felt that this treatment

<sup>15</sup> *Registration, Revenues and Band Governance; Lands and Trusts Services, Manual for the Administration of Band Moneys* (Ottawa: Indian and Northern Affairs Canada, Indian Moneys Directorate 1997), Chapter 4, 4.1.1.

<sup>16</sup> T. Stewart and A. Rangwala, *Audit of Band and Individual Trust Accounts* (Ottawa: Department of Indian Affairs and Northern Development Corporate Services, Departmental Audit and Evaluation Branch, Project 97/05, June 1998), p. i.

applied to First Nations governments for any trusts that they might administer on behalf of others. To exclude administered trusts from the reporting entity, it must be clear that the government is acting as a trustee and is accountable to third parties for the use of the trust fund assets. Trust assets are not owned by the government.

Often, the term “trusts” is applied to assets earmarked as a result of a government policy decision when no trust liability exists. Such assets are special funds that comprise part of the government reporting entity and would be included in the consolidated statements.

The Study Group concluded that the *PSA Handbook* standards dealing with trusts applied to First Nations and the criteria to determine control should be used to determine financial statement treatment.

### **Restricted Assets and Revenues**

Control of assets needs to be differentiated from the restriction of assets. The two terms do not have the same meaning. Guidance on restricted assets and revenues can be found in *PSA Handbook* Section PS 3100, “Restricted Assets and Revenues.” The use of assets and revenue can be externally restricted by another party and must be used for the purpose stipulated. For example, a First Nation may have funds restricted in accordance with an agreement with Canada Mortgage and Housing Corporation. Externally restricted resources are recognized in the financial statements when they are used for the purpose intended. An external restriction does not mean that a government has lost control of the resource.

Internally restricted resources are those where the restrictions have been imposed by the government itself. Because the government is free to change any internal restrictions, such assets are fully integrated into the government’s consolidated financial statements. Note disclosure should be provided to identify internal restrictions and the government’s intentions.

The Study Group concluded that the *PSA Handbook* section on restricted assets and revenues applied to First Nations.

### **Segment Disclosures**

A government’s summary financial statements aggregate the financial results of a number of its organizations. This provides users with a complete picture of a government’s financial activities and results. For accountability and decision-making purposes, however, it can be beneficial to disclose selected disaggregated financial information about particular government segments. Use of segment disclosures will enable a First Nation government to provide more detail on the various programs and services it delivers.

*PSA Handbook* Section PS 2700, “Segment Disclosures,” provides direction on how government segments should be defined and identified. There are a number of ways to determine government segments, and the best approach is left to the judgment of the financial statement preparer. The *PSA Handbook* section indicates what disclosure should be provided for the identified segments.

The Study Group concluded that the *PSA Handbook* section on segment disclosures applied to First Nations.

## Revenue Recognition and Transfer Payments

As noted in Chapter 5, many First Nations receive block funding under the Canada/First Nations Funding Agreement, which is a five-year funding agreement. Revenue recognition can be problematic when funding applicable to more than one year is received in a single year. This revenue recognition issue has also been of concern to other governments in Canada. The Public Sector Accounting Board is currently addressing this issue on its agenda.

Although there is uncertainty associated with the outcome of the standard-setting project on government transfers, the Study Group concluded that this was an important issue for First Nations, and that First Nations were similar to other governments when it comes to issues with accounting for government transfers.

## APPLICABILITY OF THE *PSA HANDBOOK* TO FIRST NATIONS

The Study Group did not review the entire *PSA Handbook* to determine its applicability to First Nations as this was deemed beyond its mandate. When recommending the adoption of the common government reporting model and reviewing consolidation issues, the Study Group did consider a significant portion of the *PSA Handbook*. The Study Group also looked at trusts, restricted assets, segment disclosures and revenue recognition for transfer payments. The Study Group concluded that these areas applied to First Nations although professional judgment would be needed. Based on the sections reviewed, the Study Group came to the overall conclusion that the *PSA Handbook* applies to First Nations.

## SUMMARY

This chapter outlined the fourth step of the Study Group's analysis of GAAP for governments and its applicability to First Nations governments. This step included an examination of how the boundaries for the government reporting entity are defined. Organizations controlled by a government are part of the reporting entity and must be included in its summary financial statements. Guidance for determining control was provided. The chapter also outlined consolidation treatments for government business enterprises, partnerships and trusts.

The Study Group concluded that the definition of reporting entity and the ways in which control is defined and identified are appropriate for First Nations governments. The Study Group also concluded that the related consolidation treatments that are part of the common government reporting model are also appropriate for First Nations governments. Although First Nations governments have some unique characteristics compared to other governments, they can still be accommodated by the common government reporting model.

In arriving at its conclusions about the common government reporting model and consolidation of government organizations and investments, the Study Group reflected on a substantial portion of the *PSA Handbook* and found that the *PSA Handbook* applied to First Nations. The Study Group also looked at additional areas of the *PSA Handbook* and determined that they also applied to First Nations. Therefore, the Study Group came to the overall conclusion that the *PSA Handbook* applies to First Nations.





# Chapter 8 – Summary and Recommendations

*Need for Report and Mandate of the Study Group – Analysis and Recommendations of this Report – Implications of Adopting the Common Government Reporting Model – Status of Report – Recommendations in Brief – Implications in Brief*

## NEED FOR REPORT AND MANDATE OF THE STUDY GROUP

This chapter explains why this project was undertaken and how the Financial Reporting by First Nations Study Group went about fulfilling its mandate. The chapter, and this report, concludes with the Study Group’s recommendations and the implications of those recommendations.

First Nations communities play a significant role in the Canadian economy in a number of ways. Most First Nations governments are engaged in economic ventures that generate increasing amounts of own-source revenue. One in six First Nations receives taxation revenue. First Nations also receive funding from the federal government, which they spend on providing province-like services to their members.

As with all other governments, First Nations governments must be accountable for the acquisition and use of their revenue streams. They owe this accountability to their own members, whether they live on-reserve or off-reserve, to other levels of government and to capital providers.

Accountability necessitates credible financial reporting. Credible financial reporting depends on high quality accounting standards to ensure that the information reported is relevant and reliable; comparable over time and with that of similar entities; and is understood by users. Credible financial reporting not only meets the requirements of accountability but also improves First Nations access to capital and lowers the cost of that capital.

Currently, accounting standards for governments in Canada do not explicitly include First Nations governments. The CICA’s Public Sector Accounting Board is responsible for setting public sector GAAP for all levels of government in Canada. Such accounting standards and guidance are spelled out in the *Public Sector Accounting (PSA) Handbook*. In defining “public sector” and “government,” the *Handbook* does not explicitly mention First Nations or First Nations governments.

First Nations governments are the subject of this report. To be more specific, the scope of this report and its recommendations apply to First Nations operating under the *Indian Act* and Aboriginal groups with legislated self-government agreements. In some cases, therefore, the recommendations of this report may also apply to Métis and Inuit peoples. For example, the Labrador Inuit, along with the Government of Canada and the Government of Newfoundland and Labrador, created the Nunatsiavut Government, which provides a new governing structure for the Labrador Inuit and their lands. The Study Group believes that its recommendations would apply to such self-governing Aboriginal groups as the Nunatsiavut Government. This report

also applies to tribal councils and First Nation political organizations, such as provincial or territorial organizations or treaty organizations, when these entities operate as governments. When tribal councils and First Nation political organizations operate as profit-oriented enterprises or not-for-profit entities, they should follow the relevant recommendations in the *CICA Handbook – Accounting*.

Because it needs to be accountable for the funds it transfers to First Nations, Indian and Northern Affairs Canada (INAC) has set out its financial reporting expectations of *Indian Act* First Nations in a document known as the *Year-end Reporting Handbook*. This *Handbook* instructs First Nations to follow public sector GAAP set out in the *PSA Handbook* for local governments although it also makes some stipulations for financial statement presentation that are not necessarily required by GAAP. Because these general purpose financial statements do not meet all of INAC's financial information needs, the *Year-end Reporting Handbook* also requires First Nations to report special purpose information.

INAC and any other party to contractual agreements with First Nations may ask for special purpose information. The First Nations would have to agree to provide it and usually would do so in addition to general purpose financial statements. It is appropriate for individual users to ask for special purpose information as needed. General purpose financial statements, on the other hand, should be designed to meet the financial information needs of many users. It would not be efficient or effective for individual users to specify what general purpose financial statements should contain. If they did, the result would be a variety of inconsistent financial statements that would not be comparable and would lead to confusion.

Therefore, it is important to address the void in accounting standards for First Nations governments. Accordingly, PSAB authorized this project with an overarching mandate to provide recommendations for financial reporting by First Nations. Key issues addressed in this report include the following:

- the changing environment for First Nations financial reporting;
- summary of present practices;
- the difference between general purpose and special purpose financial statements and the relationship of these to the needs of stakeholders;
- users and needs of users;
- objectives of First Nations general purpose financial statements; and
- the reporting entity.

As illustrated in Exhibit 1 – Performance Reporting Model, found in Chapters 1 and 4, the scope of this report is limited to general purpose financial statements governed by GAAP. GAAP cannot address the special purpose requirements of INAC or any other user. Accordingly, this report does not make any recommendations in this area or in any other area not covered by GAAP. Thus, this report cannot directly address the reporting burden First Nations currently face. Nevertheless, if more users were to accept general purpose GAAP statements instead of requiring the many special purpose reports, the reporting burden should be greatly reduced.

Although beyond the scope of this report, the Study Group urges First Nations to consider the whole Performance Reporting Model, including qualitative and quantitative non-financial information and a full range of financial information, in addition to

GAAP-based financial statements.<sup>1</sup> PSAB issued two Statements of Recommended Practice (SORPs) that provide some guidance in addressing the full spectrum of accountability reporting: SORP-1, “Financial Statement Discussion & Analysis,” and SORP-2, “Public Performance Reporting.” Note, however, that SORPs are not mandatory and do not form part of GAAP. A guide related to SORP-2, *Public Performance Reporting: Guide to Preparing Public Performance Reports*, is available on the PSAB website at [http://www.psab-ccsp.ca/index.cfm/ci\\_id/18656/la\\_id/1.htm](http://www.psab-ccsp.ca/index.cfm/ci_id/18656/la_id/1.htm).

Reports produced by CICA Study Groups do not constitute GAAP either. They are usually published without much input from stakeholders. Nevertheless, the Study Group felt that there was a need for public awareness of this particular project, as well as a need to better understand financial reporting issues faced by First Nations communities. As a result, the Study Group held Regional Focus Group meetings throughout Canada mid-way through the project and enlisted feedback on a complete draft of this report. In addition, the Study Group and its technical support group engaged in a number of outreach activities. See Appendix A for more details.

## ANALYSIS AND RECOMMENDATIONS OF THIS REPORT

The Study Group believes that accountability is the fundamental motivation for financial reporting and that concepts related to accountability must guide this report. The Study Group chose to use the definition of accountability provided by the Office of the Auditor General of Canada.<sup>2</sup>

Accountability is a relationship based on obligations to demonstrate, review, and take responsibility for performance, both the results achieved in light of agreed expectations and the means used.

Financial reporting practices are based on accountability relationships arising from social, political and economic circumstances. To understand the accountability relationships of First Nations, the Study Group reviewed their current social, political and economic environment as well as the relationship between First Nations peoples and Canada. History shaped a relationship that the courts consider to be *sui generis*, meaning special and unique. Knowing this history is necessary for understanding the current environment of First Nations and the related accountability relationships they have developed over time.

The Study Group acknowledges that First Nations are not homogenous. There are many differences among First Nations based on population size, history, geography, culture, language, socio-economic conditions, treaty rights and circumstances, internal capacity, vision and priorities. Many First Nations are financially healthy; others are not. Some First Nations operate under the *Indian Act* while others have self-governing legislation. Although First Nations are diverse, the Study Group concluded that they had some common accountability relationships that needed to be considered in developing recommendations for financial reporting by First Nations:

- relationships with their members, whether resident on-reserve or off-reserve;
- relationships with other levels of government; and
- relationships with capital providers.

<sup>1</sup> The Performance Reporting Model is shown in Exhibit 1 in Chapters 1 and 4 and is described briefly in Chapter 1 and more fully in Chapter 4.

<sup>2</sup> *December 2002 Report*, Chapter 9 (Ottawa: Office of the Auditor General of Canada, 2002), p. 1.

Given those common accountability relationships, the Study Group concluded that there was not enough diversity to warrant different accounting standards for different First Nations.

In making its recommendations for accounting standards, the Study Group had six reporting alternatives to choose from:

- (1) the common government reporting model under GAAP;
- (2) for-profit GAAP;
- (3) not-for-profit GAAP;
- (4) retaining the soon-to-be-outdated local government reporting model required by INAC's *Year-end Reporting Handbook*, although this would not be GAAP;
- (5) a mixture of accounting standards, which would not be GAAP; or
- (6) the development of accounting standards solely for First Nations.

The Study Group recognized that certain First Nation government organizations have the characteristics of for-profit organizations. This would apply mainly to government enterprises set up to enhance economic development for the First Nation and generate own-source revenue. As well, the Study Group noted there are other organizations controlled by First Nation governments that have the characteristics of not-for-profit organizations. These would be, for example, organizations focused on delivering social services and health and education programs. Most First Nations would have both types of organizations. On an overall basis, those governing a First Nations community operate as a government, with a range of objectives and a range of organizations all directed to operate for the benefit of members. The Study Group concluded that First Nations are governments and that it would be ideal if GAAP for governments could serve their financial reporting purposes.

The Study Group examined the common reporting model for government, which accommodates both for-profit and not-for-profit organizations within a reporting entity. Other governments have the same issues as First Nations when it comes to dealing with accounting for a variety of their organizations. The *PSA Handbook* currently indicates that, for the purposes of preparing their own financial statements, each organization within a government reporting entity should use the GAAP that best suits it, whether that is for-profit, not-for-profit or government GAAP. A decision tree for choosing the appropriate GAAP is illustrated in Appendix B. For the summary financial statements, however, the overall government reporting entity will be consolidated using GAAP for governments. Given that individual organizations can use the set of accounting standards that best suit them, the Study Group felt that GAAP for governments should be able to accommodate the diversity of organizations within a First Nation's government.

The Study Group noted that use of the common government reporting model should enhance comparability within First Nations governments as well as between First Nations governments and other governments. The Study Group also noted that general purpose financial statements prepared using the common government reporting model should serve many of the needs of many of the key users, including federal government departments.

Before further exploring GAAP for governments and its applicability to First Nations governments, the Study Group briefly considered the other reporting alternatives and dismissed them. Effective for year-ends beginning on or after January 1, 2009, there will be only one common financial reporting model for all levels of government

in Canada, from the smallest municipality to the federal government itself. If First Nations continued to follow the soon-to-be-outdated local government reporting model, as required by INAC's *Year-end Reporting Handbook*, they would no longer have GAAP-based statements that would be comparable with those of other governments. The Study Group felt that understandability and comparability were critical qualitative characteristics for all financial reporting. As well, unlike the local government model, the common government reporting model provides detailed guidance on the recognition and measurement of tangible capital assets. The Study Group felt that information on tangible capital assets was an important component of First Nations financial statements. Therefore, continuing to use outdated local government accounting standards was not seen as an option.

The alternative of having a mixture of accounting standards was based on the idea that the source and volume of revenue should determine accounting treatment. This alternative was rejected because it would be detrimental for comparability purposes and the Study Group felt that GAAP for governments appropriately accommodates different sources of revenue and different types of government organizations.

The Study Group understands that there are many differences among individual First Nations as well as between First Nation governments and other governments. The Study Group did not feel that these differences were sufficient to warrant different accounting standards for different First Nations or accounting standards different from other levels of government. Accordingly, the Study Group rejected the development of a new set of accounting standards for First Nations.

Having rejected all of the other alternatives, the Study Group concluded that it should test its thinking by exploring GAAP for governments in detail to confirm whether it applied to First Nations governments.

The Study Group proceeded with a four-step analysis of the common reporting model, as outlined in the *PSA Handbook*, and began by looking at the description of user information needs and general purpose government financial statements found in *PSA Handbook* Section PS 1000, "Financial Statement Concepts."

Second, the Study Group looked at the characteristics of government outlined in *PSA Handbook* Section PS 1100.A, "Financial Statement Objectives, Appendix A – Unique Characteristics of Government." First Nations governments and the population levels of individual First Nations are relatively small. The Study Group kept in mind that, for the most part, the characteristics in the *PSA Handbook* were intended to apply not only to the senior (provincial, territorial and federal) levels of government but also to municipal governments, whether large or small.

The Study Group continued with the third step, which was an examination of *PSA Handbook* Sections PS 1100, "Financial Statement Objectives," and PS 1200, "Financial Statement Presentation." In Section PS 1200, the Study Group looked at the four financial statements required for government reporting and the five key messages contained in these statements. The Study Group noted that PSAB developed this reporting model after careful consideration of the characteristics of government and how governments differ from for-profit and not-for-profit organizations.

Finally, the Study Group also reviewed *PSA Handbook* Section PS 1300, "Government Reporting Entity," to determine if the concepts related to defining the reporting entity and the associated accounting treatment contained in the standard applied to First Nations governments.

After reviewing *PSA Handbook* Section PS 1000, “Financial Statement Concepts,” the Study Group concluded that its description of user needs and general purpose financial statements appropriately described the needs of the full range of users of First Nations financial statements as well as the general purpose financial statements that First Nations governments should be providing.

In the second step, the Study Group determined that there are some differences between the characteristics of government outlined in *PSA Handbook* Section PS 1100.A, “Financial Statement Objectives, Appendix A – Unique Characteristics of Government,” and First Nations governments:

- First Nations have a stronger relationship with their land base, most of which is reserve land held by the federal government for the benefit of the members of First Nations.
- Taxation revenue is not a major source of revenue for First Nations. Depending on the First Nation, either federal government transfers or profits from economic enterprises will be the main source of revenue.
- First Nations do not have the same capacity to issue debt even though recent legislative initiatives are aimed at giving First Nations access to competitive long-term debt financing.
- First Nations differ from other governments in the extent to which the federal government holds assets in trust for them. This applies to reserve land and a variety of financial trusts.

Despite these differences, from an accounting perspective, the Study Group found that the characteristics of government in general, as described in *PSA Handbook* Section PS 1100.A, also applied to First Nations governments.

After the third step, reviewing the objectives and messages of government financial statements contained in *PSA Handbook* Sections PS 1100, “Financial Statement Objectives,” and PS 1200, “Financial Statement Presentation,” the Study Group concluded that the objectives and messages of government financial statements applied to First Nations governments regardless of the relative extent of the various sources of their revenue. The Study Group felt that the government financial statements required by the *PSA Handbook* suited First Nations governments.

In Section PS 1300, “Government Reporting Entity,” the *PSA Handbook* indicates that a government reporting entity should include any organizations that are controlled by that government. The *Handbook* Section also outlines how various government organizations, government business enterprises, portfolio investments and trusts should be included in a government’s financial statements. In the fourth step, the Study Group decided that defining the reporting entity based on control applied to First Nations governments. As well, the related consolidation treatments also seemed appropriate for First Nations. First Nations governments should be reporting on a consolidated basis by presenting summary information that aggregates the individual financial statements of all organizations comprising the reporting entity.

In short, the Study Group concluded that the common government reporting model, as described in the *PSA Handbook*, applies and should be adopted by all First Nations governments. In arriving at its conclusions, the Study Group reflected on a substantial portion of the *PSA Handbook* and found that the *PSA Handbook* applied to First Nations.

## IMPLICATIONS OF ADOPTING THE COMMON GOVERNMENT REPORTING MODEL

The Regional Focus Group meetings and the responses to the draft report provided the Study Group with many comments about the practical implications of adopting the common government reporting model. Although beyond the mandate of this report, the Study Group felt that it was critical to reflect on these comments and note the implications of the Study Group's recommendation that all First Nations should use the common model. Without careful consideration of these implications, it will not be possible for all First Nations to successfully adopt the common government reporting model.

A key concern shared by the Study Group and those who provided feedback is the need for capacity building. For the adoption of the common government reporting model to be successful, capacity building is essential among three key groups: preparers, auditors and users. First Nations governments, those who audit First Nations governments and users, especially federal government departments such as INAC, need capacity building.

Many First Nations governments will need to provide ongoing training for current accounting staff. Hiring or contracting for additional expertise may also be necessary. Such training and expertise is needed primarily in the area of financial statement preparation. Current accounting systems should still be functional under the common government model although some changes will be needed. For example, it will be necessary for First Nations governments to devote resources to develop a database for tracking tangible capital assets. A *Guide to Accounting for and Reporting Tangible Capital Assets* is available on the PSAB website at [http://www.psab-ccsp.ca/index.cfm/ci\\_id/18656/la\\_id/1.htm](http://www.psab-ccsp.ca/index.cfm/ci_id/18656/la_id/1.htm).

Two related points need to be noted. First, the need for training and expertise will increase as First Nations governments choose to deliver the full range of performance reporting outlined in the Performance Reporting Model in Chapters 1 and 4 and expected as best practice from other governments. Second, investment will be critical to ensure that sufficient training and expertise is acquired.

In many cases, auditors of First Nations also audit local governments and have already begun discussions with their clients on the move to the common government reporting model. Depending on client base and staffing levels and expertise, auditors may need to consider capacity building within their firms.

Education will be required for the various users of First Nations financial statements. Some users, such as financial institutions, will be familiar with the common government reporting model and will have little adjustment to make in interpreting the financial statements. There will, however, be many users who will need to understand the common government reporting model, the four financial statements within that model and their five key messages. It is essential to gain such understanding before making critical decisions based on First Nations financial statements. This will likely require users to develop different decision rules.

A good example of the need for user understanding and the likely need for different decision rules is the trigger point for intervention into the financial affairs of a First Nation. INAC currently considers intervention when the financial statements of a First Nation government indicate a cumulative operating deficit of eight percent or more of total annual operating revenue. INAC will need to consider whether such a benchmark is appropriate under the common government reporting model.



Adoption of the common government reporting model should enhance comparability within First Nations governments as well as between First Nations governments and other governments. GAAP for governments should serve many of the needs of many of the key users, including federal government departments.

Members of a First Nation will need to learn about the key messages contained in the financial statements issued by their First Nation. For example, they need to know that the amount of net debt on the Consolidated Statement of Financial Position shows the amount of future revenues required to pay for past transactions.

Institutionally, First Nations will need to be considered in the evolution of accounting standards and should play a role in the due process of standard setting. This means that First Nations need to become active in responding to standard-setting documents issued for public comment. Such participation will ensure that First Nations are considered in future standard setting.

As for current accounting standards, the Study Group encourages the Public Sector Accounting Board to re-examine the definitions of public sector and government and consider changing those definitions to apply to First Nations.

Because the current local government model will soon no longer exist, there is a critical need for INAC to update the *Year-end Reporting Handbook* to make it consistent with the *PSA Handbook* and to clearly differentiate between general purpose reporting and special purpose requirements. This will need to be implemented for fiscal years beginning on or after January 1, 2009. Otherwise, First Nations following INAC's *Year-end Reporting Handbook* will not be in compliance with GAAP. For example, the *Year-End Reporting Handbook* currently requires First Nations to present certain funds (physical assets, trust, enterprise and operating funds) where applicable, in the Member's Equity section of the Statement of Financial Position. Such presentation is not allowed under GAAP for the common government reporting model.

## STATUS OF REPORT

As noted several times, the Study Group's recommendations in this report are not GAAP. Standard setting to establish GAAP requires following due process, which means involving stakeholders and getting their feedback at several stages in the standard-development process. This process can take several years, but results in standards that meet the accountability and decision-making needs of the stakeholders who prepare and use financial statements.

The standards and guidelines in the *PSA Handbook* constitute the primary sources of government GAAP. When these primary sources do not deal with certain accounting or reporting issues, an entity must use professional judgment and seek guidance from other sources. These other sources – which include the *CICA Handbook –Accounting* and CICA research reports and studies – must be consistent with GAAP and the financial statement concepts outlined in the *PSA Handbook*.

# Recommendations in Brief

**RECOMMENDATION: The *Public Sector Accounting Handbook* and the common government reporting model described in the *Public Sector Accounting Handbook* should apply to First Nations governments.**

- The description of user needs and general purpose government financial statements found in *PSA Handbook* Section PS 1000, “Financial Statement Concepts,” appropriately describes the needs of the full range of users of First Nations financial statements as well as the general purpose financial statements that First Nations governments should be providing.
- The nine characteristics unique to government described in *PSA Handbook* Section PS 1100.A, “Financial Statement Objectives, Appendix A - Unique Characteristics of Government,” apply to First Nations governments in general even though some differences do exist.
- The four financial statements required for government reporting and the five key messages contained in these statements, as laid out in *PSA Handbook* Sections PS 1100, “Financial Statement Objectives,” and PS 1200, “Financial Statement Presentation,” suit First Nations governments regardless of the nature and extent of revenue sources.
- The definition of a reporting entity and the accounting treatment for consolidating government organizations found in *PSA Handbook* Section PS 1300, “Government Reporting Entity,” applies to First Nations governments.

**RECOMMENDATION: The Public Sector Accounting Board should re-examine the definitions of public sector and government to ensure they include First Nations.**

**RECOMMENDATION: Although beyond the scope of this report, the Study Group urges the federal government to reduce the reporting burden on First Nations by requiring only one set of audited general purpose financial statements, prepared in accordance with the *Public Sector Accounting Handbook*, supported by special purpose reporting, where necessary, for accountability.**

- Reliance on financial statements prepared in accordance with high-quality, independently set accounting standards will not only increase credibility and comparability but will also reduce the reporting burden for First Nations.



# Implications in Brief

**IMPLICATION: For the adoption of the common government reporting model to be successful, capacity building is essential among three key groups: preparers, auditors and users.**

- Preparers will need ongoing training and acquisition of expertise. Development of a capital asset database will be necessary. Some additional changes to accounting systems may be required. Investment will be necessary.
- Depending on client base and staffing levels and expertise, auditors may need to consider capacity building within their firms.
- Users will need to be able to interpret the financial statements, which will require establishing different criteria for decision-making. For example, INAC will need to review intervention policies.

**IMPLICATION: First Nations will need to be considered in the evolution of accounting standards and should play a role in the due process of standard setting.**

- Due process in standard setting requires input from stakeholders. First Nations will need to consider accessing public standard-setting documents and responding to those documents. Documents for comment are available on the Public Sector Accounting Board website.

**IMPLICATION: There is a critical need for INAC to update the *Year-end Reporting Handbook* to make it consistent with the *Public Sector Accounting Handbook* and have it clearly differentiate between general purpose reporting and special purpose requirements. Otherwise, First Nations following INAC's *Year-end Reporting Handbook* will not be in compliance with GAAP.**



# Appendix A - Outreach Activities

To ensure awareness of the project and obtain stakeholder feedback, the Study Group and its technical support group engaged in various outreach activities. In some cases, feedback was specifically asked for. In other cases, questions and comments were requested. In all cases, active input from stakeholders was welcomed.

## Regional Focus Groups

As described in this report, one-day regional focus groups were held in March 2007 in the following cities: Moncton, Quebec City, Ottawa, Winnipeg, Edmonton and Vancouver. A total of 69 individuals participated. Substantial discussion was held in the following four areas:

- Do accounting standards set for government make sense for First Nations?
- What accountability relationships do First Nations have?
- Do the nine unique characteristics of government (*PSA Handbook PS 1100 Appendix A*) apply to First Nations governments?
- Do you agree with the definition of reporting entity and what it means for First Nations governments?

## Draft Report

At the end of August 2007, a draft of this report was sent to more than 100 individuals who were asked to comment on the draft by October 22, 2007. In early October, these individuals were reminded of that deadline. In early September 2007, the draft report was posted on the AFOA Canada website with an invitation to comment by the October 22, 2007 deadline. All AFOA members were notified of this posting in early September and, in early October, all AFOA members were reminded of the deadline for comment.

## Article in JAM

AFOA Canada publishes *The Journal of Aboriginal Management* (JAM). The September 2007 issue, which was distributed in late August 2007, contained an article outlining the Study Group's progress on the project. The availability of the draft report on the AFOA website and the invitation for comments were highlighted in the article.

## AFOA e-bulletin

The May 2007 e-bulletin of AFOA Canada had an information item on the Regional Focus Groups held in March 2007.

## Presentations at AFOA Canada National Meetings

Presentations were made at the following AFOA Canada National meetings:

- 2006 workshop to introduce the project;
- 2007 plenary presentation to provide an update on the project; and
- 2008 workshop to outline the Study Group's recommendations and implications.

### **Presentations at AFOA Chapter Meetings**

Presentations were made at the following AFOA Chapter Meetings:

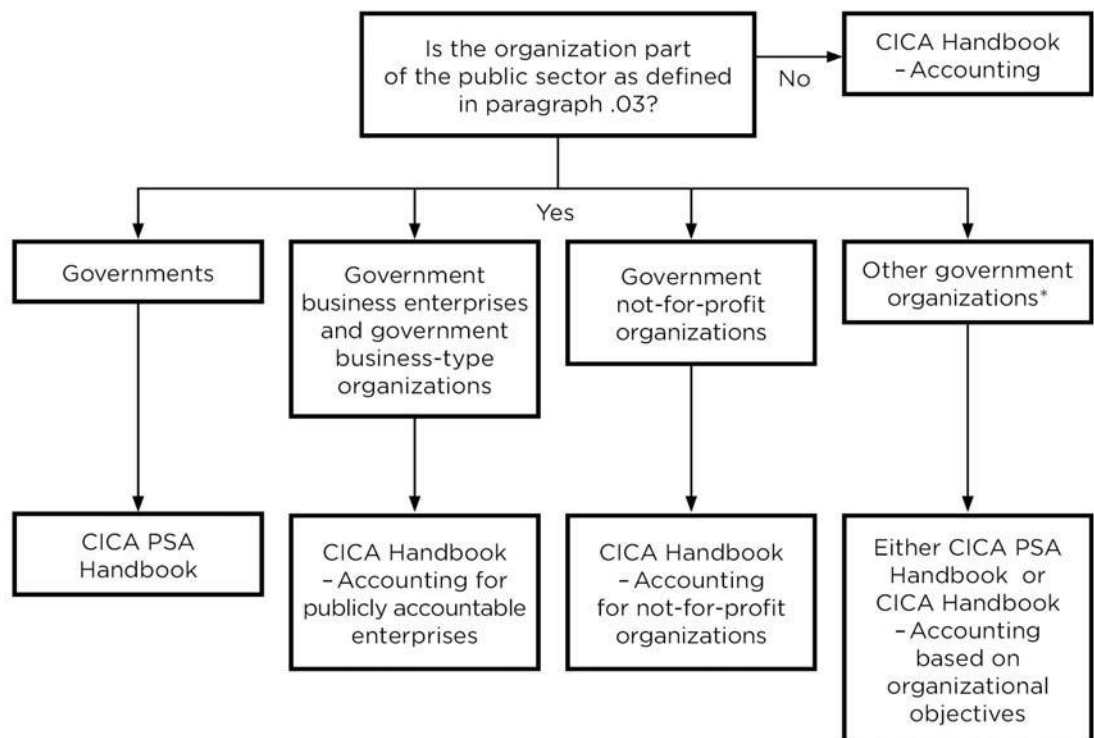
- November 2006 - Saskatchewan;
- January 2007 - Atlantic Canada;
- October 2007 - Ontario;
- October 2007 - Manitoba;
- November 2007 - Saskatchewan;
- December 2007 - Alberta; and
- December 2007 - BC.

### **Communication with the Assembly of First Nations**

At key stages of the project, letters were sent to National Chief Phil Fontaine outlining the project and the progress made. Letters were sent in August 2006, March 2007, June 2007, and February 2008. Study Group members also held discussions with Mr. Fontaine.

# Appendix B - Determining Appropriate Standards

Source: *PSA Handbook*, "Introduction to Public Sector Accounting Standards," Appendix A.



\* PSAB reserves the right to recommend additional or different information to meet the special circumstances of government organizations





# Appendix C – Sample Financial Statements Under the Common Government Reporting Model

Source: Adapted from *20 Questions about Government Financial Reporting: Federal, Provincial and Territorial Governments* (Toronto: Canadian Institute of Chartered Accountants, 2003).

## *statement 1 – Consolidated Statement of Financial Position*

<b>(Name of Reporting Entity)</b>		
<b>Consolidated Statement of Financial Position</b>		
<b>as at March 31, 2X10</b>		
<i>(in \$000's)</i>		
	<u><b>2X10</b></u>	<u><b>2X09</b></u>
<b>Financial assets</b>		
Cash and cash equivalents	4,086	4,263
Accounts receivable	4,373	4,605
Business enterprises equity	2,122	1,273
Portfolio investments	331	207
<b>Total financial assets</b>	<u>10,912</u>	<u>10,348</u>
<b>Liabilities</b>		
Accounts payable and accrued liabilities	7,196	7,534
Long-term debt	9,363	9,796
Deferred revenue	1,703	1,841
<b>Total liabilities</b>	<u>18,262</u>	<u>19,171</u>
<b>Net debt</b>	<u><b>(7,350)</b></u>	<u><b>(8,823)</b></u>
<b>Non-financial assets</b>		
Tangible capital assets	7,218	7,215
Inventories of supplies	112	222
Prepaid assets	30	20
<b>Total non-financial assets</b>	<u>7,360</u>	<u>7,457</u>
<b>Accumulated surplus/(deficit)</b>	<u><b>10</b></u>	<u><b>(1,366)</b></u>
See accompanying notes to the consolidated financial statements.		

**statement 2 – Consolidated Statement of Operations**

<b>(Name of Reporting Entity)</b>			
<b>Consolidated Statement of Operations</b>			
<b>for the year ended March 31, 2X10</b>			
<i>(in \$000's)</i>			
	<b>2X10</b>	<b>2X10</b>	<b>2X09</b>
	<u>Budget</u>	<u>Actual</u>	<u>Actual</u>
<b>Revenues</b>			
INAC	6,382	7,464	6,655
Income from business enterprises	2,642	2,659	3,848
Taxation	1,265	1,408	1,543
Rental/Leases	470	547	558
Tribal Council	345	341	330
Health Canada	660	770	705
Industry Canada	641	680	652
Province	581	651	669
User fees	427	485	465
Trust income	100	342	402
Investment income	409	610	747
Miscellaneous revenue	355	365	280
	<u>14,277</u>	<u>16,322</u>	<u>16,854</u>
<b>Expenses</b>			
Education	4,329	4,287	4,168
Health	1,541	1,626	1,457
Community infrastructure	1,706	1,856	1,740
Band government	1,654	1,701	1,709
Economic development	2,626	2,823	2,807
Social assistance	781	772	717
Social housing	1,051	1,127	1,060
Recreation	468	487	462
Land claim	93	267	183
	<u>14,249</u>	<u>14,946</u>	<u>14,303</u>
<b>Annual surplus</b>	<b>28</b>	<b>1,376</b>	<b>2,551</b>
Accumulated deficit at beginning of year	(1,366)	(1,366)	(3,917)
<b>Accumulated surplus/(deficit) at end of year</b>	<b>(1,338)</b>	<b>10</b>	<b>(1,366)</b>

See accompanying notes to the consolidated financial statements.

↑ The amortization of using capital assets in the year to provide services is reflected in these expenses. In accrual accounting, a government allocates the purchase cost of the asset to each of the periods in which the asset is used to provide services. ↓

**statement 3 – Consolidated Statement of Change in Net Debt**

		<b>(Name of Reporting Entity)</b> <b>Consolidated Statement of Change in Net Debt</b> <b>for the year ended March 31, 2X10</b> <i>(in \$000's)</i>			
		<b>2X10</b>	<b>2X10</b>	<b>2X09</b>	
		<b><u>Budget</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	
		<b>Annual surplus</b>	28	1,376	2,551
Purchase of new capital assets	→	Acquisition of tangible capital assets	(294)	(294)	(250)
Sale of old capital assets	→	Proceeds on sale of tangible capital assets	0	46	72
		Amortization of tangible capital assets (depreciation)	226	226	230
Reversal of accrual accounting entries	↗	(Gain)/loss on sale of tangible capital assets	0	(5)	(19)
	↘	Write-downs of tangible capital assets	0	24	44
			<u>(68)</u>	<u>(3)</u>	<u>77</u>
Spending to acquire non-financial assets	→	Acquisition of supplies inventories	0	0	(324)
	→	Acquisition of prepaid asset	0	(30)	(20)
Reversal of accrual accounting entries	→	Use of supplies inventories	0	110	102
	→	Use of prepaid asset	0	20	0
			<u>0</u>	<u>100</u>	<u>(242)</u>
		<b>(Increase)/decrease in net debt</b>	<b>(40)</b>	<b>1,473</b>	<b>2,386</b>
		<b>Net debt at beginning of year</b>	<b>(8,823)</b>	<b>(8,823)</b>	<b>(11,209)</b>
		<b>Net debt at end of year</b>	<b><u>(8,863)</u></b>	<b><u>(7,350)</u></b>	<b><u>(8,823)</u></b>
See accompanying notes to the consolidated financial statements.					

**statement 4a – Consolidated Statement of Cash Flow – Indirect Method**  
(either the Indirect or the Direct Method may be used)

<b>(Name of Reporting Entity)</b>		
<b>Consolidated Statement of Cash Flow</b>		
<b>for the year ended March 31, 2X10</b>		
<i>(in \$000's)</i>		
	<u><b>2X10</b></u>	<u><b>2X09</b></u>
<b>Operating transactions</b>		
Annual Surplus	1,376	2,551
Non-cash items included in annual surplus/(deficit)	804	522
Prepaid expenses	(30)	(20)
Change in deferred revenue	(138)	16
Other	(893)	77
Cash provided by operating transactions	<u>1,119</u>	<u>3,146</u>
<b>Capital transactions</b>		
Acquisition of tangible capital assets	(294)	(250)
Sale of tangible capital assets	46	72
Cash applied to capital transactions	<u>(248)</u>	<u>(178)</u>
<b>Investing transactions</b>		
Proceeds from disposals and redemptions of portfolio investments	352	997
Portfolio investments	(594)	(2,089)
Other	(17)	(15)
Cash applied to investing transactions	<u>(259)</u>	<u>(1,107)</u>
<b>Financing transactions</b>		
Proceeds from long-term debt	3,970	3,694
Repayment of long-term debt	(4,759)	(6,175)
Cash applied to financing transactions	<u>(789)</u>	<u>(2,481)</u>
<b>Decrease in cash and cash equivalents</b>	<b>(177)</b>	<b>(620)</b>
<b>Cash and cash equivalents at beginning of year</b>	<b>4,263</b>	<b>4,883</b>
<b>Cash and cash equivalents at end of year</b>	<b><u>4,086</u></b>	<b><u>4,263</u></b>
See accompanying notes to the consolidated financial statements.		

**statement 4b – Consolidated Statement of Cash Flow – Direct Method**  
(either the Indirect or the Direct Method may be used)

<b>(Name of Reporting Entity)</b>		
<b>Consolidated Statement of Cash Flow</b>		
<b>for the year ended March 31, 2X10</b>		
<i>(in \$000's)</i>		
	<b><u>2X10</u></b>	<b><u>2X09</u></b>
<b>Operating transactions</b>		
Cash received from:		
Federal government	8,239	7,267
Taxation	1,541	1,943
Business enterprises	2,118	3,808
Rental/leases and user fees	581	291
Other transfers	3,401	2,983
Investments and miscellaneous income	564	675
Other	1,676	1,516
	<u>18,120</u>	<u>18,483</u>
Cash paid for:		
Salaries, wages and benefits	11,345	11,276
Material and supplies	3,192	2,936
Grants and other transfers	2,074	290
Financing charges	282	733
Travel and communication	108	102
	<u>17,001</u>	<u>15,337</u>
Cash provided by operating transactions	<u>1,119</u>	<u>3,146</u>
<b>Capital transactions</b>		
Acquisition of tangible capital assets	(294)	(250)
Sale of tangible capital assets	46	72
Cash applied to capital transactions	<u>(248)</u>	<u>(178)</u>
<b>Investing transactions</b>		
Proceeds from disposals and redemptions of portfolio investments	352	997
Portfolio investments	(594)	(2,089)
Other	(17)	(15)
Cash applied to investing transactions	<u>(259)</u>	<u>(1,107)</u>
<b>Financing transactions</b>		
Proceeds from long-term debt	3,970	3,694
Repayment of long-term debt	(4,759)	(6,175)
Cash applied to financing transactions	<u>(789)</u>	<u>(2,481)</u>
<b>Decrease in cash and cash equivalents</b>	<b>(177)</b>	<b>(620)</b>
<b>Cash and cash equivalents at beginning of year</b>	<b>4,263</b>	<b>4,883</b>
<b>Cash and cash equivalents at end of year</b>	<b><u>4,086</u></b>	<b><u>4,263</u></b>
See accompanying notes to the consolidated financial statements.		



# Appendix D - Qualitative Characteristics of Government Financial Statements

Source: *PSA Handbook* Section PS 1000, “Financial Statement Concepts.”

Financial statements should communicate information that is relevant to the needs of those for whom the statements are prepared, reliable, comparable, understandable and clearly presented in a manner that maximizes its usefulness.

## RELEVANCE

Information is relevant by its nature when it can influence the decisions of users by helping them evaluate the financial impact or potential financial impact of past, present or future transactions and events or confirm, or correct, previous evaluations. Relevance is achieved through information that has predictive, feedback and accountability value, and is timely.

### Predictive value and feedback value

Information that helps users to predict a government’s future financial results and cash flows has predictive value. Although the data provided in financial statements will not normally be a prediction in itself, it may be useful in making predictions. The predictive value of the statement of operations, for example, is enhanced if abnormal items are separately disclosed. Information that confirms or corrects previous predictions has feedback value. Information often has both predictive value and feedback value.

### Accountability value

Information that helps users assess a government’s stewardship of the resources entrusted to it, including how resources have been applied and consumed in providing services, has accountability value. Information in government financial statements must be presented in a manner that assists in discharging this accountability. To provide accountability value, financial statements should reflect the nature and dimensions of financial position and performance that are characteristic of and appropriate to the unique nature of government. Accountability value is enhanced when financial statements identify the financial objectives and targets normally established by formal process and measure actual achievements against those financial objectives and targets. The accountability value of the information in the financial statements is also enhanced when the financial and non-financial performance information disclosed elsewhere in the annual report of the government can be related to the information in financial statements.



## **Timeliness**

Information should be timely. Financial statements issued long after the end of the fiscal period are of historical interest only. For information to be useful for decision making and accountability, the decision maker or stakeholder must receive it before it loses its capacity to influence decisions. The usefulness of information for decision making and assessing accountability declines as time elapses.

## **RELIABILITY**

Information should be reliable. Inaccurate, inappropriate or incomplete information, or information that is biased or does not faithfully represent what it purports to represent, will inhibit rather than enhance understanding, evaluation and decision making by users and adversely affect the accountability provided by the financial statements to stakeholders. Reliable information has the characteristics of representational faithfulness, completeness, neutrality, conservatism and verifiability.

### **Representational faithfulness**

Representational faithfulness is achieved when transactions and events affecting the entity are presented in financial statements in a manner that is in agreement with the actual underlying transactions and events. Thus, transactions and events are accounted for and presented in a manner that conveys their substance rather than necessarily their legal or other form. The substance of transactions and events may not always be consistent with that apparent from their legal or other form. To determine the substance of a transaction or event, it may be necessary to consider a group of related knowledgeable and independent observers would concur that it is in agreement with the actual underlying transaction or event with a reasonable degree of precision.

### **Completeness**

Information is complete when none of the data necessary to achieve representational faithfulness is lacking. Completeness of disclosure means providing sufficient information about transactions, circumstances or events of such size, nature or incidence that their disclosure is necessary to understand the government's finances. In assessing the degree of completeness of the information provided in financial statements, the benefit/cost constraint and the qualitative characteristics trade-off described below would be considered. Reliability implies completeness of information, at least within the bounds of what is material and feasible, considering the cost. An omission can rob information of its claim to neutrality if the omission is material and is intended to induce or inhibit some particular mode of behaviour.

### **Neutrality**

Information is neutral when it is free from bias that would lead users towards making decisions that are influenced by the way the information is measured or presented. Bias in measurement occurs when a measure tends to consistently overstate or understate the items being measured. In the selection of accounting principles, bias may occur when the selection is made with the interests of particular users or with particular economic or political objectives in mind. Financial statements that do not include everything necessary for faithful representation of transactions and events affecting the entity would be incomplete and, therefore, potentially biased.

Neutrality does not mean “without purpose”, nor does it mean that accounting should be without influence on human behaviour. Accounting information cannot avoid affecting behaviour, nor should it. It is, above all, the predetermination of a de-

sired result, and the consequential selection of information to induce that result, that negates neutrality in accounting. To be neutral, accounting information must report economic activity as faithfully as possible, without colouring the image it communicates for the purpose of influencing behaviour in some particular direction.

### **Conservatism**

The application of conservatism in making judgments under conditions of uncertainty affects the neutrality of financial statements in an acceptable manner. When uncertainty exists, estimates of a conservative nature attempt to ensure that assets, revenues and gains are not overstated and, conversely, that liabilities, expenses and losses are not understated. Conservatism does not, however, encompass the deliberate understatement of assets and revenues or the deliberate overstatement of liabilities and expenses.

### **Verifiability**

The financial statement representation of a transaction or event is verifiable if knowledgeable and independent observers would concur that it is in agreement with the actual underlying transaction or event with a reasonable degree of precision. Verifiability focuses on the correct application of a basis of measurement rather than its appropriateness.

## **COMPARABILITY**

Comparability is a characteristic of the relationship between two pieces of information rather than of a particular piece of information by itself. It enables users to identify similarities in and differences between the information provided by two sets of financial statements. Uniformity in application of principles is important when comparing the financial statements of two different entities. Consistency in application is important when comparing the financial statements of the same entity over two periods or at two different points in time. Consistency helps prevent misconceptions that might result from the application of different accounting policies in different periods. When a change in accounting policy is deemed to be appropriate, disclosure of the effects of the change is necessary to maintain comparability.

## **UNDERSTANDABILITY AND CLEAR PRESENTATION**

Information should be understandable and clearly presented. Excessive detail, vague or overly technical descriptions, and complex presentation formats result in confusion and misinterpretation. Users need information presented clearly and simply. For the information provided in financial statements to be useful, it must be capable of being understood by users. Users are assumed to have a reasonable understanding of economic activities and accounting, together with a willingness to study the information with reasonable diligence.

## **QUALITATIVE CHARACTERISTICS TRADE-OFF**

In practice, a trade-off between qualitative characteristics is often necessary, particularly between relevance and reliability. For example, there is often a trade-off between the timeliness of producing financial statements and the reliability of the information reported in the statements. There may also be a trade-off between the accountability value of information and the level of detail appropriate to the financial statements, as well as the cost of providing it. Generally, the aim is to achieve an appropriate balance among the characteristics in order to meet the objectives of finan-

cial statements. The relative importance of the characteristics in different cases is a matter of professional judgment.

## **BENEFIT VERSUS COST CONSTRAINT**

The benefits expected to arise from providing information in financial statements should exceed the cost of doing so. This constraint also applies to the development of accounting standards by the Board. It is also a consideration when preparing financial statements in accordance with those standards (for example, in considering disclosure of information beyond that required by the standards). The Board recognizes that the benefits and costs may accrue to different parties and that the evaluation of the nature and amount of benefits and costs is substantially a judgmental process.

# Appendix E - General Reporting Principles of Government Financial Statements

Source: *PSA Handbook* Section PS 1200, “Financial Statement Presentation.”

The financial statements of a government should be clearly identified and should include or be accompanied by an acknowledgment of the government’s responsibility for their preparation. (PS 1200.005)

Notes and schedules that are integral to the financial statements should be clearly identified. (PS 1200.007)

Notes and supporting schedules in financial statements should not be used as a substitute for proper accounting treatment. (PS 1200.010)

Financial statements should present any information required for the fair presentation of a government’s financial position, results of operations, change in net debt, and cash flow. (PS 1200.012)

Financial statements should be presented in such form and use such terminology and classification of items that significant information is readily understandable. (PS 1200.016)

Financial statements should present a comparison of current period amounts with those of the prior period(s). (PS 1200.018)

The bases for determining the reported amounts of assets and liabilities should be applied consistently and, where the bases are not self-evident, they should be disclosed. (PS 1200.020)

Financial statements should be issued on a timely basis. (PS 1200.022)

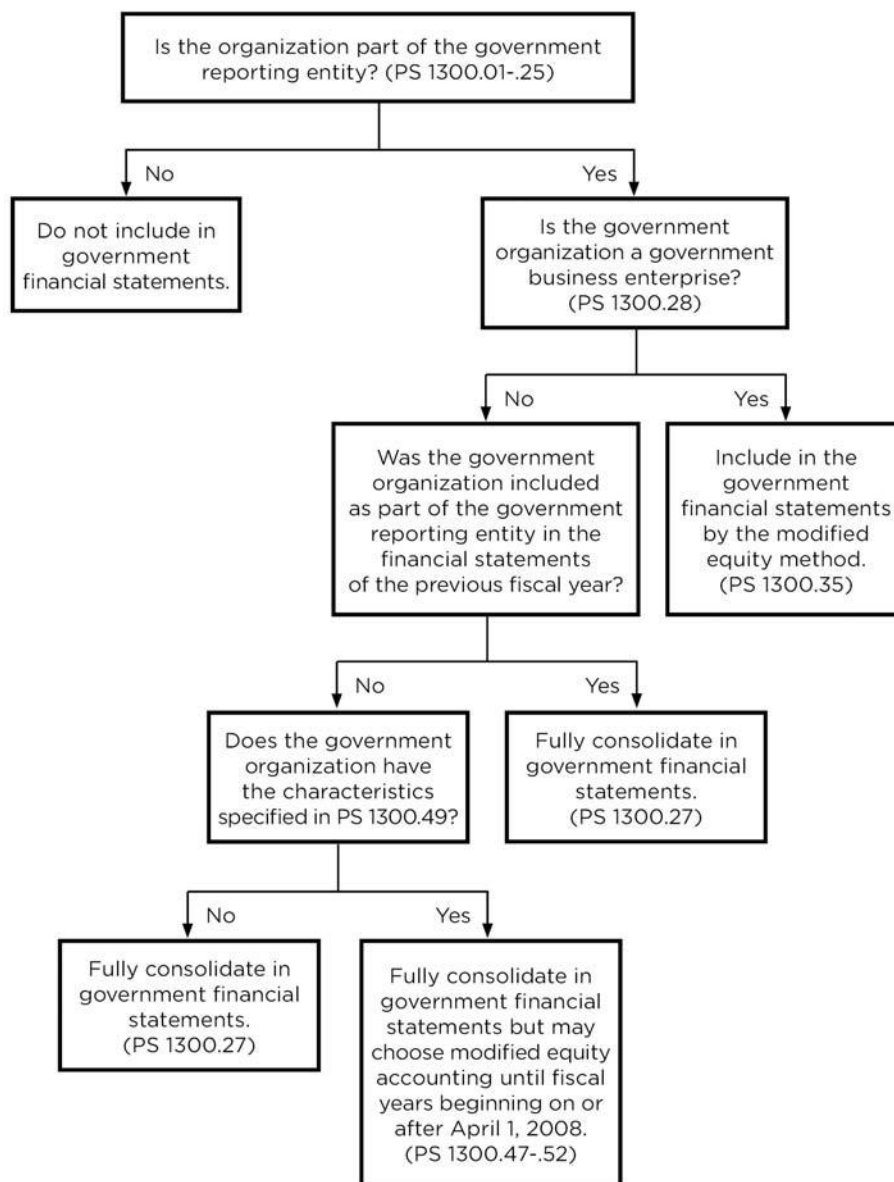
Where the financial statements are subject to an independent audit, the auditor’s report should be appended to the statements. Unaudited financial statements should be clearly identified as such. (PS 1200.024)

Financial statements should present the substance of transactions and events. (PS 1200.026)

*Appendix E - General Reporting Principles of Government Financial Statements*

# Appendix F - Government Reporting Entity

Source: *PSA Handbook* Section PS 1300, "Government Reporting Entity", Appendix A.





# Glossary

This Glossary was developed from a number of sources.<sup>1, 2, 3</sup>

**Aboriginal peoples:** The descendants of the original inhabitants of North America. The Canadian Constitution recognizes three groups of Aboriginal people: Indians, Métis and Inuit. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs.

**Aboriginal rights:** Rights that some Aboriginal peoples of Canada hold as a result of their ancestors' long-standing use and occupancy of the land. The rights of certain Aboriginal peoples to hunt, trap and fish on ancestral lands are examples of Aboriginal rights. Aboriginal rights vary from group to group depending on the customs, practices and traditions that have formed part of their distinctive cultures. The *Constitution Act, 1982*, Section 35 (1) recognized and affirmed existing Aboriginal and treaty rights with the clause: "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."<sup>4</sup> This means that Aboriginal rights and title cannot be extinguished without the full consent of Aboriginal peoples. In 1995, the Government of Canada recognized the inherent right of self-government as an existing Aboriginal right under section 35 of the *Constitution Act, 1982*, and now views the negotiation of a self-government agreement between an Aboriginal group, Canada and the relevant province or territory as the most practical and effective way of implementing this right.

**Aboriginal self-government:** Governments designed, established and administered by Aboriginal peoples under the Canadian Constitution through a process of negotiation with Canada and, where applicable, the provincial or territorial government.

**Aboriginal title:** A legal term that recognizes an Aboriginal interest in the land. It is based on the long-standing use and occupancy of the land by today's Aboriginal peoples as the descendants of the original inhabitants of Canada. Where Aboriginal title exists, it can be utilized for economic development.

**Accountability:** "Accountability is a relationship based on obligations to demonstrate, review, and take responsibility for performance, both the results achieved in light of agreed expectations and the means used."<sup>5</sup>

**Assets:** Assets are economic resources controlled by a government as a result of past transactions or events and from which future economic benefits may be obtained. Assets have three essential characteristics:

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1 Many of these non-financial terms were taken from the Indian and Northern Affairs Canada website, *Terminology*, [http://www.ainc-inac.gc.ca/pr/info/tln\\_e.html](http://www.ainc-inac.gc.ca/pr/info/tln_e.html) (accessed September 11, 2006).

2 Many of these financial terms were taken directly from the *CICA PSA Handbook*.

3 Terms relating to the CICA and PSAB were taken from [http://www.cica.ca//index.cfm/ci\\_id/17150/la\\_id/1.htm](http://www.cica.ca//index.cfm/ci_id/17150/la_id/1.htm).

4 Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1 (Ottawa: Minister of Supply and Services Canada), p. 207.

5 *December 2002 Report*, Chapter 9 (Ottawa: Office of the Auditor General, 2002), p. 1.



- (a) they embody a future benefit that involves a capacity, singly or in combination with other assets, to provide future net cash flows, or to provide goods and services;
- (b) the government can control access to the benefit; and
- (c) the transaction or event giving rise to the government's control of the benefit has already occurred.

An item is not an asset of a government if it lacks one or more of the essential characteristics listed in the preceding paragraph. Thus, for example, an item does not qualify as an asset of a government if the item involves:

- (a) no future economic benefit;
- (b) future economic benefit, but the government cannot obtain it; or
- (c) future economic benefit that the government may obtain, but the events or circumstances that give the government control of the benefit have not yet occurred.

**Band:** A body of Indians for whose collective use and benefit lands have been set apart or money is held by the Crown, or declared to be a band for the purposes of the *Indian Act*. Each band has its own governing band council, usually consisting of one chief and several councillors. Community members choose the chief and councillors by election or, sometimes, through custom. The members of a band generally share common values, traditions and practices rooted in their ancestral heritage. Today, many bands prefer to be known as First Nations.

**Canadian Institute of Chartered Accountants:** The Canadian Institute of Chartered Accountants (CICA), together with the CA institutes/ordre, represents approximately 71,000 CAs and 9,500 students in Canada and Bermuda. The CICA conducts research into current business issues and supports the setting of accounting, auditing and assurance standards for business, not-for-profit organizations and government. It issues guidance on control and governance, publishes professional literature, develops continuing education programs and represents the CA profession nationally and internationally.

**Common reporting model or common government reporting model:** The financial reporting model that the *PSA Handbook* will require for all levels of government effective with fiscal years beginning on or after January 1, 2009. This is the same model currently followed by senior governments (provincial, territorial and federal governments).

**Custom:** A traditional Aboriginal practice. For example, First Nations peoples sometimes marry or adopt children according to custom, rather than under Canadian family law. Band councils chosen "by custom" are elected or selected by traditional means, rather than by the election rules contained in the Indian Act.

**Economic resources:** Economic resources are scarce means that are useful for carrying out economic activities, such as consumption, production and exchange. Financial and non-financial resources comprise the economic resources of a government.

**Expenses:** Expenses, including losses, are decreases in economic resources, either by way of outflows or reductions of assets or incurrences of liabilities, resulting from the operations, transactions and events of the accounting period. Expenses include transfer payments due where no value is received directly in return. Expenses include the cost of economic resources consumed in and identifiable with the operations of the accounting period. For example, the cost of tangible capital assets is amortized to ex-

penses as the assets are used in delivering government programs (see *PSA Handbook* Section 3150, “Tangible Capital Assets”). Expenses do not include debt repayments or transfers to other governmental units in the government reporting entity.

**Financial assets:** Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations. A financial asset is any asset that is:

- (a) cash;
- (b) a realizable asset that is convertible to cash;
- (c) a contractual right to receive cash or another financial asset from another party;
- (d) a temporary or portfolio investment;
- (e) an investment in a government business enterprise or government business partnership;
- (f) a financial claim on an outside organization or individual; or
- (g) an inventory or item for sale that meets the criteria in *PSA Handbook* Section 1200, “Financial Statement Presentation,” paragraph PS 1200.051.

**Financial resources:** Financial resources include cash, claims to cash, investments and any other resources of the government that are not for consumption in the normal course of operations and are expected to contribute to net cash inflows (such as inventories for resale). A government’s financial assets, as defined in *PSA Handbook* Section PS 1000, “Financial Statement Concepts,” comprise the financial resources of a government.

**First Nation:** A term that came into common usage in the 1970s to replace the word “Indian,” which some people found offensive. Although the term First Nation is widely used, no legal definition of it exists. Among its uses, the term “First Nations peoples” refers to the Indian peoples in Canada, both Status and non-Status. Some Indian peoples have also adopted the term “First Nation” to replace the word “band” in the name of their community.

**First Nation Governments:** Currently, in Canada, First Nation government usually takes one of two forms: (1) government by band council operating under the *Indian Act*; or (2) self-government whereby a First Nation has negotiated a self-government agreement with provincial and federal governments and is no longer covered by the *Indian Act*. The two governments do not have the same degree of autonomy. Band councils operate under the authority delegated to them by the federal government under the *Indian Act*. Self-governing First Nations exercise their own jurisdictions. Nevertheless, when discussing First Nations government in general, both forms are referred to simply as government for the purposes of this report.

**Gains:** Gains can arise from peripheral or incidental transactions and events affecting a government. Such transactions and events include the disposition of assets purchased for use and not for resale, and the liquidation or refinancing of debt.

**Government:** The *CICA Public Sector Accounting Handbook* defines government as “the elected and appointed policy-makers and administrators who together perform the executive function and are the preparers of financial statements” (*PSA Handbook* Section PS 1000.02).

**Indian:** Indian peoples are one of three groups of people recognized as Aboriginal in the Constitution Act, 1982. It specifies that Aboriginal people in Canada consist of In-

dians, Inuit and Métis. Indians in Canada are often referred to as Status Indians, non-Status Indians and Treaty Indians.

**Indian Act:** Canadian federal legislation, first passed in 1876, and amended several times since. It sets out certain federal government obligations and regulates the management of Indian reserve lands, Indian moneys and other resources. Among its many provisions, the *Indian Act* currently requires the Minister of Indian Affairs and Northern Development to manage certain moneys belonging to First Nations and Indian lands and to approve or disallow First Nations by-laws.

**Indian status:** An individual's legal status as an Indian, as defined by the Indian Act.

**Innu:** Naskapi and Montagnais First Nations (Indian) peoples who live in Northern Quebec and Labrador.

**Inuit:** An Aboriginal people in Northern Canada, who live in Nunavut, Northwest Territories, Northern Quebec and Northern Labrador. The word means "people" in the Inuit language — Inuktitut. The singular of Inuit is Inuk.

**Inuvialuit:** Inuit who live in the Western Arctic.

**Land claims:** In 1973, the federal government recognized two broad classes of claims — comprehensive and specific. Comprehensive claims are based on the assessment that there may be continuing Aboriginal rights to lands and natural resources. These kinds of claims come up in those parts of Canada where Aboriginal title has not previously been dealt with by treaty and other legal means. The claims are called "comprehensive" because of their wide scope. They include such things as land title, fishing and trapping rights and financial compensation. Specific claims deal with specific grievances that First Nations may have regarding the fulfillment of treaties. Specific claims also cover grievances relating to the administration of First Nations lands and assets under the Indian Act.

**Liabilities:** Liabilities are present obligations of a government to others arising from past transactions or events, the settlement of which is expected to result in the future sacrifice of economic benefits. Liabilities have three essential characteristics:

- (a) they embody a duty or responsibility to others, leaving a government little or no discretion to avoid settlement of the obligation;
- (b) the duty or responsibility to others entails settlement by future transfer or use of assets, provision of goods or services, or other form of economic settlement at a specified or determinable date, on occurrence of a specified event, or on demand; and
- (c) the transactions or events obligating the government have already occurred.

**Losses:** Losses can arise from peripheral or incidental transactions and events affecting a government. Such transactions and events include the disposition of assets purchased for use and not for resale, and the liquidation or refinancing of debt.

**Métis:** People of mixed First Nation and European ancestry who identify themselves as Métis, as distinct from First Nations people, Inuit or non-Aboriginal people. The Métis have a unique culture that draws on their diverse ancestral origins, such as Scottish, French, Ojibway and Cree.

**Non-financial assets:** Non-financial assets are acquired, constructed or developed assets that do not normally provide resources to discharge existing liabilities, but instead:

- (a) are normally employed to deliver government services;
- (b) may be consumed in the normal course of operations; and
- (c) are not for sale in the normal course of operations.

Non-financial assets include tangible capital assets, and other assets such as prepaid expenses and inventories of supplies.

**Non-financial resources:** Non-financial resources include all items of a fixed or permanent nature (such as tangible capital property), claims to goods and services (such as prepaid items) and consumable goods (such as inventories of supplies). Non-financial resources also include intangibles, Crown lands and natural resources.

**Non-Status Indian:** An Indian person who is not registered as an Indian under the Indian Act.

**Nunavut:** The territory was created on April 1, 1999 when the former Northwest Territories was divided in two. Nunavut means “our land” in Inuktitut. Inuit, whose ancestors inhabited these lands for thousands of years, make up 85 percent of the population of Nunavut. The territory has its own public government.

**Off-reserve:** A term used to describe people, services or objects that are not part of a reserve, but relate to First Nations.

**Performance Reporting Model:** This model is illustrated in Exhibit 1 in this report. It demonstrates that information reporting on an entity’s performance can be provided in oral, written and annual report formats. The information may be financial or non-financial. Financial information is divided into information required by GAAP and information outside of GAAP-based financial statements. Non-financial information is divided into qualitative and quantitative non-financial information. Outside of GAAP statements, information may be chosen by the preparer or may be provided because of special purpose requirements stipulated by a user.

**Public Sector Accounting Board:** The Public Sector Accounting Board (PSAB) of the CICA is an independent body with the authority to set accounting standards for the public sector. PSAB’s standards are developed by the people who prepare, audit and use government financial statements and reports. Under its terms of reference, two-thirds of PSAB Board members will normally be people responsible for government financial reporting and auditing.

**Public Sector Accounting Handbook:** The CICA *Public Sector Accounting (PSA) Handbook* contains accounting standards and guidelines applicable to federal, provincial, territorial and local governments. It also requires that certain public sector organizations follow the *CICA Handbook - Accounting* unless otherwise directed to specific accounting standards of the *PSA Handbook*. The Appendices to the Introduction to Public Sector Accounting Standards in the *PSA Handbook* describe which standards apply to public sector organizations. In addition to accounting standards and guidelines, the Public Sector Accounting Board also issues statements of recommended practice. Accounting standards and guidelines form part of Generally Accepted Accounting Principles (GAAP). Statements of Recommended Practice (SORPs) do not form part of GAAP. SORPs address specific aspects of reporting on financial condition and financial and non-financial performance and are issued by PSAB to enhance decision making and accountability by improving the understandability of reports issued in the public sector. The *Public Sector Accounting (PSA) Handbook* can be ordered from the CICA at: [http://www.psab-ccsp.ca/index.cfm/ci\\_id/225/la\\_id/1.htm](http://www.psab-ccsp.ca/index.cfm/ci_id/225/la_id/1.htm).

**Reserve:** A tract of land, the legal title to which is held by the Crown, set apart for the use and benefit of an Indian band.

**Revenues:** Revenues, including gains, are increases in economic resources, either by way of increases of assets or decreases of liabilities, resulting from the operations, transactions and events of the accounting period. Revenues, other than gains, can arise from: taxation; the sale of goods; the rendering of services; the use by others of government economic resources yielding rent, interest, royalties or dividends; or receiving contributions such as grants, donations and bequests. Revenues do not include borrowings, such as proceeds from debt issues or transfers from other governmental units in the government reporting entity.

**Status Indian:** A person who is registered as an Indian under the *Indian Act*. The act sets out the requirements for determining who is an Indian for the purposes of the *Indian Act*.

**Surrender:** A formal agreement by which a band consents to give up part or all of its rights and interests in a reserve. Reserve lands can be surrendered for sale or for lease, on certain conditions.

**Tangible capital assets:** Tangible capital assets are non-financial assets having physical substance that:

- (a) are held for use in the production or supply of goods and services;
- (b) have useful economic lives extending beyond an accounting period; and
- (c) have been acquired to be used on a continuing basis.

**Treaty Indian:** A Status Indian who belongs to a First Nation that signed a treaty with the Crown.

**Tribal council:** A regional group of First Nations members that delivers common services to a group of First Nations.

**Year-end Reporting Handbook:** As part of its funding agreements, Indian and Northern Affairs Canada requires Indian bands operating under the *Indian Act* to report on a variety of financial information. The nature of the general purpose financial statements and the special purpose reports are stipulated by the *Year-end Reporting Handbook for First Nations, Tribal Councils and First Nation Political Organizations*. The Study Group looked at the November 2003 edition of the *Year-end Reporting Handbook*, which was in force at the time of the Study Group's work. In the absence of explicit Canadian accounting standards for First Nations, this *Handbook* indicates that GAAP for First Nations general purpose financial statements must be based on the recommendations for local governments as outlined in the *PSA Handbook*.

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