

Issue Update

Title: New Fiscal Relationship

History

Fiscal relations are critical components of Nation-to-Nation relationships. Crown-First Nations fiscal relationships must support and ensure respect for First Nations Inherent Rights, Treaties, Title, and Jurisdiction, and First Nations participation in economic growth. First Nations governments and institutions must have access to sufficient, predictable, long-term funding to achieve well-being for their Nations and citizens.

Decades of fiscal policies focused on compliance and reporting requirements rather than empowering First Nations governments to design services based on the priorities of their citizens, along with insufficient funding of First Nations governments, are barriers to progress. These longstanding challenges affect socio-economic outcomes, innovation, and the strengthening of financial management, human resources, IT systems, and other essential structures required for good governance and services.

The AFN remains committed to the co-development and design of a new fiscal relationship that moves towards sufficient, predictable, and sustainable funding for First Nations Governments as envisioned in the 2019 report of the Joint Advisory Committee on Fiscal Relations (JACFR) and remains in line with the inherent right to self-determination and jurisdiction over socio-economic growth and affairs as expressed in the *United Nations Declaration on the Rights of Indigenous Peoples*.

The work on the new fiscal relationship is called for by reports and mandated by AFN Resolutions:

- *A New Approach: Co-Development of New Fiscal Relationship between Canada and First Nations*, co-authored by the AFN and Indigenous Services Canada, published December 2017.
- Resolution 66/2017, *AFN-Canada Joint Report on Fiscal Relations*, which calls upon Canada to implement the key actions recommended in the JACFR report, including to establish a permanent advisory committee, pursue the co-development of recommendations to increase revenue generation opportunities, create 10-year grants, replace the Default Prevention and Management Policy with a cooperative approach that supports First Nations, and co-develop an approach to repeal the *First Nations Financial Transparency Act* and replace it with a mutual accountability framework supported by First Nations-led audit and statistical functions.
- *Honouring our Ancestors by Trailblazing a Path to the Future*, authored by the Joint Advisory Committee on Fiscal Relations, June 2019.
- Resolution 24/2019, *Engage Extensively with First Nations on the Report of the Joint Advisory Committee on Fiscal Relations*, which called on the JACFR, the AFN, and ISC to engage with First Nations on the report and its recommendations and called on the JACFR to report to the First Nations-in-Assembly about the findings from those engagements.
- AFN's governance sector (New Fiscal Relations) provides updates through dialogue sessions at Chiefs Assemblies but will call for a mandate to reconvene JACFR before bringing back engagement findings to be shared at an upcoming Assembly.

AFN's Recent Advocacy

Based on Resolution 66/2017, the AFN and Canada co-developed the New Fiscal Relationship (NFR) Transfer, a new funding mechanism designed to offer First Nations an alternative to funding through contribution agreements. The NFR Transfer provides several significant benefits, including:

- a 10-year term (most contribution agreements have shorter terms),
- design and delivery services flexibility,
- ability to allocate, manage, and use funding to better accommodate local needs and changing circumstances and priorities,
- unspent funds retention, and
- reduced administrative and reporting burdens.

As of May 2023, 143 First Nations have opted-in to the grant. Discussions with ISC and Indigenous partners are underway about expanding the grant's eligible recipients to include Tribal Councils and First Nations Health Authorities.

While Canada has longstanding programs that support the delivery of services in First Nations communities, programs such as Band Support Funding, Employee Benefits, Tribal Council Funding, and Professional and Institutional Development are based on outdated designs and are considerably under-resourced. Canada agrees that First Nation governance needs to be modernized, including:

- In the immediate term, by developing a proposal to support First Nations governance (in line with the commitment made in Budget 2018); and,
- In the longer term, by revising and developing policies, programs, and legislative frameworks that support First Nations governance in the context of a modern fiscal relationship.

The AFN continues to call on Canada to rescind the Default Prevention and Management Policy (DPMP) and replace it with a collaborative approach that supports First Nations capacity development and mutual accountability while respecting the rights and authority of First Nations.

The JACFR envisioned a new fiscal relationship premised on shared responsibilities and mutual accountability. It called for an accountability framework to measure and report on the closure of socioeconomic gaps in conjunction with the development of options for statutory transfers between Canada and First Nations. As per JACFR recommendations, ISC is currently engaging with First Nations leadership and regions about the draft National Outcomes-based Framework (NOBF) and expects to complete the engagements by Fall 2023. The NOBF is subject to change based on the feedback provided by First Nations in this engagement process.

Next Steps

ISC is in the process of preparing two Memoranda to Cabinet (MC) for submission in Fall 2023. The first MC will include the following:

- Expanding the NFR Grant to aggregates such as Tribal Councils and First Nations Health Authorities.
- Seeking additional policy authority to undertake further work on remaining JACFR recommendations, including the establishment of a First Nations Auditor General Office and the creation of a First Nation Data and Statistical Institute.
- The repeal of the *First Nation Financial Transparency Act*.

The second MC is for the Modernization of Governance initiative, which includes developing a new funding formula that supports community needs in specific program areas and supports existing First Nations institutions that serve First Nations needs in respect of governance capacity.

The AFN maintains that key elements of a New Fiscal Relationship between Canada and First Nations includes new funding arrangements and recognition of First Nations' jurisdiction, and the transfer of service delivery to First Nations governments and First Nations-led institutions. This work includes mutual accountability and must ensure a means for measuring progress toward closing the socioeconomic gaps, such as the national outcomes-based framework.