



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

Final Report

Evaluation of the Federal Interlocutor's Contribution Program and Powley Initiative

Project Number: 1570-7/12024

September 2013

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Evaluation, Performance Measurement,
and Review Branch
Audit and Evaluation Sector



Table of Contents

Executive Summary	iii
Management Response / Action Plan	vi
1. Introduction	1
1.1 <i>Overview</i>	1
1.2 <i>Program Profile</i>	2
2. Evaluation Methodology	13
2.1 <i>Evaluation Scope and Timing</i>	13
2.2 <i>Evaluation Issues and Questions</i>	13
2.3 <i>Evaluation Methodology</i>	14
2.4 <i>Roles, Responsibilities and Quality Assurance</i>	16
3. Evaluation Findings - Relevance	17
3.1 <i>Continued Need</i>	17
3.2 <i>Alignment with Federal Government Priorities and Departmental Strategic Outcomes</i> 24	
4. Evaluation Findings – Performance (Effectiveness and Efficiency)	29
4.1 <i>Effectiveness</i>	29
4.2 <i>Program Design and Delivery</i>	41
4.3 <i>Internal and External Factors</i>	47
5. Evaluation Findings - Efficiency and Economy	51
6. Conclusions and Recommendations	53
Appendix A – Provincial Fora	54
Appendix B – Commemorative Events	58
Appendix C – Selected Relevant Court Cases to Métis Rights	61
Appendix D – Key-Informant Interview Guide	64

Executive Summary

This evaluation was conducted by the Evaluation, Performance Measurement and Review Branch with support from Stiles Associates Inc. It fulfills the requirement of the Treasury Board Policy on Evaluation for an evaluation of the Federal Interlocutor's Contribution Program (FICP) and the *Powley* Initiative prior to the renewal of its Terms and Conditions, currently due to expire March 2015. The FICP funds the following project-based initiatives: bilateral discussions with the Métis National Council and the Congress of Aboriginal Peoples; tripartite relations with provincial representative Métis and non-status Indian organizations; capacity building; Métis Contribution to Canada and funding for the *Powley* initiative, which is available to Métis organizations with substantial Métis memberships to identify Métis harvester and members.

From 2008-2013, the FICP supported the strategic outcome of the Office of the Federal Interlocutor, to *"improve the socio-economic conditions of Métis, non-status Indians and urban Aboriginal people."* In late 2012, the FICP as a program was resituated under Aboriginal Affairs and Northern Development Canada's (AANDC) Policy and Strategic Direction division and under the strategic outcome of "The Government", with the ultimate outcome of *"good governance and co-operative relationships for First Nations, Métis, non-status Indians, Inuit and Northerners"*.

This evaluation assesses the issues of relevance (continued need, alignment with government priorities and alignment with federal roles and responsibilities) and performance (achievement of expected outcomes and demonstration of efficiency and economy) in order to inform decisions on resource allocation and reallocation.

The evaluation methodology included a review of key sources of literature, a review of program documents and files, 17 key informant interviews and four case studies. Despite best efforts, the evaluators encountered significant challenges in procuring the participation of Aboriginal organizations, and in obtaining consistent and reliable information and documentation to support the evaluation.

The evaluation was, however, able to articulate a series of key findings and recommendations. The evaluation and its associated Management Response and Action Plan were approved at the Evaluation, Performance Measurement and Review Committee meeting of September 19, 2013.

With respect to relevance:

- There is a need for the Government of Canada to support pro-active reconciliation and management of Métis Aboriginal rights and the management of Métis and non-status Indian litigation.
- There is a need for bilateral and tripartite forums in order to provide a space for open discussion, relationship building and developing practical work plans for improving the socio-economic conditions of Métis and for non-status Indians.
- There is a need for capacity building support to facilitate Métis and non-status Indian organizations' ability to meaningfully represent their members in reconciliation discussions at the federal level.
- There is a need for funding a sophisticated Métis registration system that allows for the monitoring of sustainable harvesting.
- Broad FICP objectives align with federal government priorities, departmental Strategic Outcomes; however, AANDC has not articulated clear and measureable outcomes and thus, it is not possible to assess the alignment of outcomes with the government's strategic priorities.
- The roles of each government department, including the leadership role of AANDC, are appropriate.
- Representative organizations found FICP funded activities to not be well aligned with the priorities of Métis and non-status Aboriginal representative organizations.

With respect to performance:

- Discussions and negotiations occurring within the bilateral and tripartite forums facilitate partners to: (1) better understand Métis and non-status Aboriginal issues; (2) manage demands for rights in a consistent manner; (3) develop institutions of self-governance; (4) develop economic development strategies; and (5) develop culturally appropriate education programs to promote secondary school completion.
- The federal government is doing more to recognize Métis contributions to Canada, but there is a general acknowledgement that Métis contributions go unrecognized in Canada.
- *Powley* registration databases have been developed and are functioning; however, they are not standardized across regions and lack the capacity to accommodate the volume and complexity of Métis identity issues.

- There is some evidence that representative organizations' capacity is improving, particularly in stronger organizations with low staff turn-over rates.
- FICP funded research activities are expanding the body of knowledge on Métis and non-status Indian issues; however, the information could be organized and disseminated more effectively.
- There is a need for improved coordination of efforts among various FICP-funded activities.
- Difficulties in achieving current program objectives suggests the need to reflect on whether the current FICP design is the appropriate approach moving forward.
- Expectations in terms of program outcomes are unclear, particularly considering changes in the governance and focus of FICP activities.

With respect to efficiency and economy:

- The evaluation found no obvious evidence of overlap or duplication of efforts with other levels of government and within the federal government.
- Funding delays are making it difficult for academics and representative organizations to plan and carry out their intended activities.
- While there are no official benchmarks or indicators for cost-effectiveness, the majority of funds for the pro-active reconciliation and management of Métis Aboriginal rights and the management of Métis and non-status Indian litigation are for contributions.

It is therefore recommended that AANDC:

- 1) Work with Métis and non-status Indian organizations and federal and provincial partners to establish a clear set of objectives for the FICP moving forward that clearly delineates roles and responsibilities and expectations of stakeholders; and
- 2) Develop a comprehensive Performance Measurement Strategy specific to the FICP and *Powley* Initiative.

Management Response / Action Plan

Project Title: Evaluation of the Federal Interlocutor’s Contribution Program and Powley
Project #: 1570-7/12024

Recommendations	Actions	Responsible Manager (Title / Sector)	Planned Implementation and Completion Dates
<p>1. Work with Métis and non-status Indians and federal and provincial partners to establish a clear set of objectives for the FICP moving forward that clearly delineates roles and responsibilities and expectations of stakeholders.</p>	<p>Moving forward, AANDC will work with with Métis and non-status Indians, federal and provincial partners to both review and establish a clear set of objectives for the FICP that clearly delineates the roles and responsibilities and expectations of stakeholders.</p> <p>AANDC will provide leadership to coordinate a process to set clear objectives and to better delineates respective stakeholder roles and responsibilities.</p> <p>The changing fiscal realities of the new departmental approach to working with Aboriginal Relations Offices will be central factors in this work.</p>	<p>Director General, Aboriginal and External Relations.</p>	<p>September 30, 2014.</p>
<p>2. Develop a comprehensive Performance Measurement Strategy specific to the FICP and Powley Initiative.</p>	<p>AANDC will develop a comprehensive Performance Measurement Strategy specific to the FICP and Powley Initiative that will articulate clear and measurable outcomes.</p> <p>AANDC will take steps to ensure that FICP and Powley Initiative objectives and outcomes are communicated and accessible to all stakeholders and compliant to new fiscal realities of the departmental approach of Aboriginal Relations Offices project funding.</p>	<p>Director General, Aboriginal and External Relations.</p>	<p>Date to accord with the approved AANDC Performance Measurement Strategy Portfolio Action Plan to be tabled at EPMRC September 19, 2013.</p>

I recommend this Management Response and Action Plan for approval by the Evaluation, Performance Measurement and Review Committee

Original signed by:

Michel Burrowes

Director, Evaluation, Performance Measurement and Review Branch

I approve the above Management Response / Action Plan

Original signed by:

Josée Touchette
Senior Assistant Deputy Minister, Policy and Strategic Direction

The Management Response / Action Plan for the Evaluation of the Federal Interlocutor's Contribution Program and Powley were approved by the Evaluation, Performance Measurement and Review Committee.

1. Introduction

1.1 Overview

The evaluation of the Federal Interlocutor's Contribution Program (FICP), including the bilateral and tripartite processes and the *Powley* Initiative, covers the period from 2008–09 to 2012-13. It responds to the Treasury Board Secretariat Policy on Evaluation (2009), requiring a neutral assessment of relevance and performance to inform resource allocation and reallocation decisions. In the case of the authorities related to FICP, this evaluation is intended to inform decisions in advance of the expiry of authorities in March 2015. The evaluation was conducted by Aboriginal Affairs and Northern Development Canada's (AANDC) Evaluation, Performance Measurement and Review Branch with the assistance of the consulting firm *Stiles Associates Inc.* conducting a series of case studies.

The previous evaluation¹, completed in 2008, found that discussions between different representatives were facilitated, various activities took place thanks to capacity-building funds, and the *Powley* Initiative made it possible to develop member registration systems. Despite these successes, however, the evaluation noted limitations caused by the vulnerability of the Métis and non-status Indian organizations, the lack of strategic priorities identified by the groups and access to multi-year funding, claims of inadequate core funding from AANDC, and a lack of clarity with respect to the capacity-building initiatives' target outcomes.

The 2008 evaluation, thus, recommended that AANDC:

- Clarify the Office of Federal Interlocutor mandate and role within AANDC and the federal government, and develop expected outcomes and performance indicators that are measurable and an accurate reflection of the scope and work of the Office of Federal Interlocutor.
- Maintain the current approach to the management of Métis rights assertions, including enhanced work with other federal departments, provinces and Aboriginal organizations on joint research efforts to further understand rights-bearing Métis communities, and strengthening and sustaining membership and identification systems.
- Strengthen and focus capacity building efforts to provide stability and sustainability to relevant Aboriginal organizations.
- Examine the weakness in the level of core funding provided to recipient organizations.
- Improve contribution program management to ensure timely processing of contribution agreement and payments.

¹ Available at <http://www.aadnc-aandc.gc.ca/eng/1100100011945/1100100011947>

The Management Response and Action Plan Follow up presented to the Evaluation, Performance Measurement and Review Committee on March 31, 2010, reported that all the recommendations were implemented.

1.2 Program Profile

1.2.1 Background and Description

Role and Mandate of Federal Interlocutor for Métis and Non-status Indians

The role of the Federal Interlocutor for Métis and Non-Status Indians was established in 1985 in the context of the Aboriginal Constitutional Conferences (1983-1987). In creating the role, it was the Government's view that it was necessary to identify a Minister who could act as a point of first contact to facilitate the participation of these groups in the Aboriginal constitutional process.

The title and role of Federal Interlocutor for Métis and Non-Status Indians was assigned to a senior Minister in addition to other titles and roles, and until 2004, the role was kept separate and apart from that of the Minister of Indian Affairs and Northern Development.

Over the intervening 20-plus years, the mandate evolved and expanded to include bilateral relations between the federal government and national Métis and non-status Indian organizations (MNSIs); tripartite self-government processes with off-reserve Aboriginal groups and the provinces; advocacy of Métis, non-status Indian, and urban Aboriginal people issues within Cabinet and Government; lead Minister for the Government of Canada's Urban Aboriginal Strategy; and, practical steps to improve the socio-economic conditions of Métis, non-status Indian, and urban Aboriginal people.

In 2004, the Minister of Indian Affairs and Northern Development was also named Federal Interlocutor for Métis and Non-Status Indians, a practice that continued until 2011, when the Minister's title was changed to Minister of Aboriginal Affairs and Northern Development.

Also in 2004 the Aboriginal Affairs Secretariat was transferred to the Department of Indian Affairs and Northern Development. Program authorities were also transferred. The Department of Indian Affairs and Northern Development established a new sector, named Office of the Federal Interlocutor (OFI). The staff, programs, funding of the former Aboriginal Affairs Secretariat work were assigned to this new sector.

The Department created a new branch within the Policy and Strategic Direction Sector to handle relations and funding agreements with Aboriginal representative organizations and be the direct focal point for both Métis relations and Inuit relations. The part of OFI that dealt with Métis and Non Status Indians was merged into this branch.

Federal Interlocutor's Contribution Program

FICP has its roots in two mid-1990s Government of Canada Aboriginal policy initiatives, the *Federal Policy Guide on Aboriginal Self-Government* and *Gathering Strength: Canada's Aboriginal Action Plan* (response to the *Report of the Royal Commission on Aboriginal Peoples*). In the almost 20 years since the program was initiated, it has undergone considerable evolution. The objective of the FICP is to help to build capacity and to maintain a relationship based on trust and respect between Métis and non-status Indian people and the Government of Canada. This is to be achieved by: maintaining political relations with their representative organizations; acting as the point of contact within the federal government; acting as an advocate for MNSI issues; entering into contribution agreements to help to build organizational and institutional capacity; and, building stronger linkages with provincial governments.

From 2008-2013, the FICP supported the strategic outcome of the Office of the Federal Interlocutor, which was to “*improve the socio-economic conditions of Métis, non-status Indians and urban Aboriginal people*”. From 2013 onwards, the FICP is situated under “The Government” sector with the ultimate outcome of “*good governance and co-operative relationships for First Nations, Métis, Non-Status Indians, Inuit and Northerners*”. The Government's recognition of the need to better include all Aboriginal peoples in its broader mandate was reflected in the name change of the department from Indian Affairs and Northern Development Canada, to Aboriginal Affairs and Northern Development Canada. Specifically with respect to the FICP, the Government recognised the need to approach Aboriginal issues more holistically and thus, rather than having Métis and non-status issues under a stand-alone strategic objective (the Office of the Federal Interlocutor), it was incorporated into “The Government” strategic objective, focussing on good governance and co-operative relationships. Challenges in the changing focus of the program as well as interpreting the various articulations of the programs expected outcomes are discussed in Section 4.3.3.

Delivery Approach

The Office of the Federal Interlocutor, when it managed the FICP, and currently the Métis and non-status Indian Relations (MNSI) Branch, annually receives proposals and work plans from Métis and non-status Indian organizations², in keeping with the Federal Interlocutor's main priorities and objectives. These organizations can be either political or service-delivery organizations. The MNSI reviews these proposals against departmental criteria and priorities, and makes recommendations to the Minister. Upon the authorization of the Minister, contribution agreements with these organizations, outlining the agreed upon terms and conditions for the project, are executed.

² In general, the Office of the Federal Interlocutor (and its predecessor organizations) has had longstanding relationships with most of the significant client organizations, going back to its creation in 1985.

In addition, consistent with Treasury Board policies, the MNSI partners³ on specific projects when opportunities to work together arise with other federal or provincial departments, or private organizations to support socio-economic-type initiatives that will benefit Métis and non-status Indians.

In the case of tripartite self-government negotiation processes and capacity building projects that support cultural, economic and social governance institutions, joint priorities are set by the three parties, and where funding is involved, the MNSI seeks matching provincial efforts.

In the case of the horizontal initiatives undertaken to manage Métis rights and assertions, the MNSI works closely with other federal departments (Department of Justice, Royal Canadian Mounted Police (RCMP), Environment Canada/Canadian Wildlife Service, Parks Canada Agency, Department of Fisheries and Oceans) to align initiatives and coordinate research efforts. Additionally, the Office of the Federal Interlocutor works closely with provincial governments, where appropriate, to build common understandings in areas that are of mutual interest.

In September 2003, the Supreme Court of Canada provided guidance on Métis rights in *R v. Powley*. This is a hunting prosecution. In October 1993, two residents of the City of Sault Ste. Marie, Ontario, who were charged under the provincial *Game and Fish Act* with unlawfully killing a bull moose, asserted that the provincial legislation infringed their Section 35 right to hunt for food. The Supreme Court of Canada ruled that the Métis community in Sault St. Marie and the environs had an Aboriginal right to hunt for food. This decision developed a test for proving Métis Aboriginal rights protected under s. 35 of the *Constitution Act, 1982*. It also established parameters around who might exercise these rights.

The Court found that an historic Métis community existed in Sault Ste. Marie and continues to exist today. The Court also accepted that the practice of hunting for food was an important feature of the Sault Ste. Marie Métis community. Accordingly, the Court recognized that "Members of the Métis community in and around Sault Ste. Marie have an Aboriginal right to hunt for food".

The Court also noted that "the term 'Métis' in s. 35 does not encompass all individuals with mixed Indian and European heritage." Indeed, the Court identified three criteria for determining if an individual may be said to belong to a Métis Aboriginal community: 1) the individual must self-identify as a Métis person; 2) there must be community acceptance by a present-day Métis community; and 3) the individual must have an ancestral connection to a historic Métis community. FICP (the *Powley* Initiative) was developed as a policy response to this decision.

³ The Office of the Federal Interlocutor partners with other departments, governments and the private sector in a variety of ways, for example: provision of small amounts of funding to support a capacity building project (interdepartmental); organizing and coordinating the implementation of the project (interdepartmental, intergovernmental & private sector); and, leading the project with other partners providing support (interdepartmental). Tools used are advocacy, interdepartmental letters of transfers, and contribution agreements with Aboriginal organizations.

The federal government, through AANDC, provided funding to the Métis National Council to develop Métis registration databases.

As of September 4, 2012, the FICP is operated under the Métis and non-status Indian Relations Directorate of the Aboriginal and External Relations Branch, which is situated under the Department's *Government Strategic Outcome*, focusing on supporting the federal government's commitment to *good governance and co-operative relationships for First Nations, Métis, non-status Indians, Inuit and Northerners*.

The Federal Interlocutor Program supports this objective by engaging in the following core activities:

- Engaging in historic and policy research to develop policy and inform AANDC and other federal departments on off-reserve (Métis and non-status Indian) issues.
- Engaging Métis organizations to strengthen representation/legitimacy to improve socio-economic conditions of Métis and non-status Indians through capacity building funds.
- Serving as a point of contact between the federal government and Métis and non-status Indians via bilateral discussions with the Métis National Council and the Congress of Aboriginal Peoples to inform federal policy and identify common areas of mutual interest to address.
- Undertaking exploratory discussions towards reconciliation involving provincial governments and Aboriginal organizations to mutually agree on paths towards reconciliation and where possible, tripartite negotiations.
- Implementing the *Powley* Initiative by supporting Métis organizations in the development of systems to identify Métis members who meet the criteria set out by the Supreme Court of Canada (i.e. self identification; community acceptance; ancestral tie).
- Coordinating an Interdepartmental Response Group (including Department of Justice, RCMP, Environment Canada, Parks Canada Agency).

The Federal Interlocutor's Contribution Program engages in these activities by providing funding through five funding streams:

1. *Bilateral Relations*
2. *Tripartite self-government negotiations*
3. *Building capacity, and electoral and financial accountability*
4. *Recognizing Métis contributions to Canada*

5. *Identification of Métis and Métis Harvesters*

1.2.2 *Objectives and Expected Outcomes*

AANDC sought renewal of the authorities for FICP and *Powley* mandate from 2010 to 2015 with the stated purpose “[of] reaffirm[ing] a pro-active reconciliation and management approach for Métis Aboriginal rights that is in keeping with the Government’s intent to maintain calm and order by managing Aboriginal rights issues, avoid litigation and the court process, and to transfer the Métis and non-status Indian litigation portfolio to Indian Affairs and Northern Development.” In order to achieve this objective, AANDC and federal partners are engaging in the following activities:

- Maintain calm-and-order on the ground with respect to the exercise of hunting and fishing activities, train and inform enforcement officers, maintain interdepartmental coordination;
- Work with provinces to harmonize harvesting systems, seek common messages and understandings, and develop working relationships to manage issues;
- Engage Métis organizations to develop systems to identify Métis who meet the criteria set out by the Supreme Court of Canada (i.e. self identification; community acceptance; ancestral tie);
- Engage in historic and policy research as required to develop policy;
- Engage Métis organizations to strengthen representation and legitimacy through enhanced governance mechanisms that support the identification systems being developed, such as strengthened electoral, financial and management accountability; and
- Maintain an Interdepartmental Response Group to ensure effective leadership and coordination in response to Métis rights, it includes (at a minimum): Office of the Federal Interlocutor, Department of Justice, RCMP, Environment Canada/Canadian Wildlife Service, and Parks Canada Agency.

According to the 2008 FICP Results-based Management and Accountability Framework (RMAF), the objective of AANDC’s FICP specifically are “to help to build capacity and to build and maintain a relationship based on trust and respect between the Government of Canada and Métis and non-status Indian people, through their respective organizations.” Similarly, keeping in mind that this is a very small program, and attainment of results will always be in proportion to the size of the program, the expected results were to help improve the socio-economic conditions (and thereby, the life chances) of Métis and non-status Indian people by working towards:

1. Supporting organizational development within representative Métis and non-status Indian organizations, so that they will reach a level of self-sufficiency in order to better represent and advocate on behalf of their members;

2. Building mutual understandings with provincial governments and representative Métis and other off-reserve Aboriginal organizations with respect to the needs of their memberships, and the nature of federal and provincial programming in order to improve access to relevant programs and services;
3. Building healthy, productive working relationships with representative off-reserve Aboriginal organizations, so that they can take advantage of partnership opportunities.
4. Building capacity in representative Métis organizations to identify Métis and Métis harvesters in keeping with the criteria set out by the Supreme Court of Canada in order to assist in the management of Métis Aboriginal rights and avoid conflict and civil unrest.

2008 Immediate Expected Outcomes:

- Enhanced federal understanding of Métis and non-status Indian people and their needs. Identification of program overlaps.
- Improved ability to advocate for Métis and non-status Indian.
- Improved understanding of relevant issues.
- Enhanced understanding of Métis and non-status Indian people, and their needs, by other levels of government.
- Improved ability to represent and advocate on behalf of membership

2008 Intermediate Expected Outcomes:

- Enhanced co-ordination of federal program delivery
- Policy changes based on facts – increased responsiveness to Aboriginal needs
- Increase participation in public government – increase input and influence of Aboriginal people in key matters that are of importance to them
- Increased participation in the Canadian economy.

2008 Ultimate Expected Outcomes:

- Improved socio-economic conditions of Métis and non-status Indians and urban Aboriginal people

1.2.3 Program Management, Key Stakeholders and Beneficiaries

Bilateral Processes

AANDC leads discussions and work plan development with each of the two national Aboriginal organizations, Congress of Aboriginal Peoples and Métis National Council, on joint key policy initiatives and facilitates meetings and initiatives with other government departments where required.

AANDC is responsible for:

- Representing the interests of the Government of Canada in all discussions; and
- Liaising with other government departments as necessary.

The national Aboriginal organizations are responsible for:

- Representing their members and liaising with their member organizations as necessary; and
- Advancing the participation of Métis and non-status Indians in the Canadian economy.

Tripartite Processes

The AANDC is responsible for:

- Representing the interests of the Government of Canada in all discussions; and
- Liaising with other government departments as necessary.

The provincial government is responsible for:

- Representing the interests of the provincial government in all discussions; and
- Liaising with other provincial ministries as necessary.

The Métis or off-reserve Aboriginal organization is responsible for:

- Representing their members; and
- Advancing the participation of Métis and non-status Indians in the Canadian economy.

Powley Mandate

Following *Powley*, the Office of the Federal Interlocutor has led the federal approach to work with provinces, territories and Métis organizations to manage the direct implications of the decision.

A Working Group comprised of AANDC, Department of Justice, RCMP, Environment Canada, Parks Canada Agency, and the Department of Fisheries and Oceans (although Department of Fisheries and Oceans does not administer any related funding).

The Interdepartmental Working Group is responsible for:

- Advising and informing members about the group's activities and the information it produces, and vice-versa;

- Developing the federal government's future policies and actions, in line with the *Powley* decision, based on research and analysis on the identification of Métis people, and Aboriginal rights-bearing Métis communities; and
- Identifying the risks faced by the federal government in order to clarify fields of federal concern and establish a position in the event of litigation while improving the Government's legal analysis.

AANDC is responsible for:

- The coordination of the working group.

The Métis organisations are responsible for identifying rights-bearing Métis.

The RCMP is responsible for:

- Providing police services adapted to Aboriginal culture and helping build healthy and safe communities;
- Providing accurate information on the accommodation of Métis harvesting rights when the need arises;
- Establishing relationships with Métis organizations and provincial stakeholders in order to adapt a common approach and deliver consistent messages;
- Managing Métis Aboriginal rights assertions on the ground while maintaining peace and order, minimizing negative precedents and encouraging the use of investigative tools by all officers; and
- Establishing new partnerships with provincial and territorial governments, Métis organizations and interested parties by holding discussions on the consequences of the *Powley* decision.

Parks Canada Agency is responsible for:

- Undertaking a comprehensive review of the *Wood Buffalo National Park Game Regulations* in order to restore the historic collaboration between Métis and treaty First Nations with respect to hunting and trapping activities in the park;
- Implementing frameworks to manage dynamic cooperation between Treaty 8 First Nations and Métis on other important subjects such as the tourism, park visits, cultural resource management, and combating forest fires; and
- Developing policies and strategies concerning Métis Aboriginal rights assertions in national parks and national historic sites.

Environment Canada (Canadian Wildlife Service and Wildlife Enforcement Directorate) is responsible for:

- Managing migratory birds under the *Migratory Birds Convention Act, 1994*;
- Wildlife management, law enforcement, training and policy development;
- Building the capacity of Métis organizations to collect, organize and analyse biological data, especially with respect to harvests; and
- Establishing partnerships in connection with wildlife management.

Litigation

While AANDC responds to litigation, the Department of Justice is responsible for the management of Métis and non-status Indian litigation.

Stakeholders and Beneficiaries

The primary beneficiaries of FICP funding are Métis and non-status Indian organizations at the national provincial and municipal levels. Stakeholders include the Métis and non-status Indians of Canada, provinces, territories, the public sector and the Canadian public. An increased ability of Métis and non-status Indian organizations to better represent their memberships by having the internal governance structures to be accountable, both to their membership and the Government for public funding received, may lead to opportunities to improve Métis and non-status Indian participation in the Canadian economy. In addition, due to the Constitutional issues involved in managing Métis rights, the people of Canada benefit through the strategy to maintain calm and order on-the-ground, which may help to establish a safe investment climate for the private sector and partnership opportunities for Métis and non-status Indian organizations.

Between 2008-09 and 2012-13, there were a total of 58 funding recipients.

1.2.4 Program Resources

Between 2009-10 and 2013-14, the Government of Canada invested a total of over \$93 million in Métis and non-status Indian activities, including specific projects under FICP and *Powley* (see Table 1).

Table 1: Budgeted and Actual Spending between 2009-10 and 2013-14 for Salary/Operation and Maintenance and contributions for FICP, Powley and Basic Organisational Capacity Funding.

	2009-2010		2010-2011		2011-2012		2012-2013		2013-2014	
	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual
Salary	224,000	0	1,007,787	986,112	1,050,268	1,223,364	1,047,510	1,017,059	709,114	699,512
Non-salary	1,244,289	747,975	1,353,382	1,325,229	1,764,141	1,546,831	679,835	653,261	565,101	388,551
Total Salary and Operation and Maintenance	1,468,289	747,975	2,361,169	2,311,341	2,814,409	2,770,194	1,727,345	1,670,320	1,274,215	1,088,063
Contributions - FICP	6,350,326	6,127,976	14,058,976	13,640,823	13,900,125	13,793,744	13,311,010	13,156,461	10,969,248	10,802,592
Contributions - Powley	7,178,144	6,557,384	0	0	0	0	0	0	0	0
Contributions - Basic Organisational Capacity	5,721,477	5,717,960	5,760,000	5,693,690	5,908,000	5,904,304	5,836,900	5,800,900	5,881,000	5,881,000
Total Contributions	19,249,947	18,403,320	19,818,976	19,334,513	19,808,125	19,698,048	19,147,910	18,957,361	16,850,248	16,683,592
Non budgetary	0	0	0	-252,759	0	-1,268,311	0	-238,643	0	-1,475,621
Total	20,718,236	19,151,295	22,180,145	21,393,095	22,622,534	21,199,932	20,875,255	20,389,038	18,124,463	16,296,034

Funding for salaries was increased in 2011-12 to address a structural deficit. As a result of Budget 2012, funding for salaries will be reduced over a three year period.

Basic Organizational Capacity funding that is provided outside of the FICP but is used to support representative organizations, including the organizations funded through FICP capacity building activities, is reducing its contributions amounts. Similarly, in June 2013, additional reductions in contribution amounts were announced for the 2013-2014 fiscal year, as can be seen in the above table.

Powley entails additional funds to Environment Canada (\$1.12 million per year, including \$235,000 per year in Grants and Contributions); Parks Canada (\$1.15 million per year) and the RCMP (\$740,000 per year).

2. Evaluation Methodology

2.1 Evaluation Scope and Timing

The FICP and *Powley* Initiative are aspects of the broader pro-active reconciliation and management of Métis Aboriginal rights and the management of Métis and non-status Indian litigation. This evaluation focuses specifically on the FICP and *Powley*-related activities of AANDC, the RCMP, Environment Canada and Parks Canada. It is not within the scope of this study to examine the funding for litigation transferred to the Department of Justice. The evaluation examined FICP program activities undertaken between 2009-2010 and 2013-2014. Terms of Reference were approved by AANDC's Evaluation, Performance Measurement and Review Committee in September 2012. Field work was conducted between February 2013 and June 2013.

2.2 Evaluation Issues and Questions

In line with the Terms of Reference, the evaluation focused on the following issues:

- *Relevance*
 - *Continued Need*
 - Is there a continued need for the FICP, including the *Powley* Initiative?
 - Can the FICP, including the *Powley* Initiative be reasonably expected to reach its stated objectives?
 - *Alignment with federal government priorities and departmental strategic outcomes*
 - To what extent is the FICP (and the *Powley* Initiative) consistent with: federal government priorities; and departmental strategic outcomes.
 - Is there a legitimate, appropriate and necessary role for the federal government in the FICP (including the *Powley* Initiative)?
- *Performance (Effectiveness; Efficiency and Economy)*
 - *Effectiveness*
 - Is the FICP, including the *Powley* Initiative making progress towards their intended objectives?
 - Have there been positive or negative unintended outcomes? If so, were any actions taken?

- *Design and Delivery*
 - To what extent have the design and delivery of the FICP as well as of the *Powley* Initiative facilitated the achievement of outcome?
 - What are the factors (both internal and external) that have facilitated and hindered the achievement of outcomes?
- *Efficiency and Economy*
 - Is the current approach to programming the most economic and efficient means of achieving the intended objectives?
- *Lessons learned/Best Practices*
 - Did the FICP, including the *Powley* Initiative take into account the lessons learned from the previous evaluation recommendations? Are there any lessons learned/best practices that could be used for the improvement of the FICP, including the *Powley* Initiative?
- *Alternatives*
 - Are there other means by which the program can achieve the same results more efficiently and/or economically?

2.3 Evaluation Methodology

The evaluation's findings and conclusions are based on the analysis and triangulation of the following lines of evidence.

2.3.1 Literature Review

Fifty-two sources were consulted on the topics of harvesting, fishing and hunting rights; Métis economic development; developing Métis policy; *Powley* and other relevant court cases and their implications. Additional publications, presentations and court case briefing notes were also incorporated from the *Daniels and Manitoba Métis Federation Decisions: Recognition of Métis Rights* conference.

2.3.2 Document and File Review

Thirty-two Government of Canada and recipient core documents were consulted.

2.3.3 Key Informant Interviews

Seventeen interviews were conducted with academic experts, federal partners, AANDC program representatives and provincial government representatives. The key-informant interview guide is included in Appendix D.

2.3.4 Case Studies

Stiles Associates Inc. conducted four case studies. The participating organizations for the case studies were selected in cooperation with the AANDC Evaluation Working Group and AANDC evaluation team. The selection of organizations was intended to account for regional distribution across Canada and strive for representativeness with respect to level of organizational capacity. It was assumed that the two national organizations—Métis National Council and Congress of Aboriginal Peoples—would be among the cases, but in the end only Congress of Aboriginal Peoples agreed to participate. The other organizations selected, and which agreed to participate, were the Manitoba Métis Federation, the Aboriginal Council of Winnipeg, and the Métis Nation of Ontario. Thus, the sample included one small national Aboriginal organization (Congress of Aboriginal Peoples, with about 16 staff), a large provincial Métis organization (Manitoba Métis Federation, with over 600 staff), a medium-sized provincial Métis organization (Métis Nation of Ontario, with about 160 staff), and a small local organization serving the Aboriginal population of Winnipeg (Aboriginal Council of Winnipeg, with only 2.5 staff).

Site visits to organizations and interviews were conducted in April and May. In total, across the four organizations, the findings represent the views of 27 individuals who participated in interviews and focus group sessions, or responded in writing to evaluation questions.

2.3.5 Limitations

Participation and Engagement

The process for selecting the case studies was challenging and time-consuming, partially due to the evaluation being conducted roughly at the same time as the finalization of the *Daniels* Case litigation process. As a result, it was extremely difficult to obtain the buy-in for participation among Métis and non-Status Indian organizations for interviews or case studies. Once the organizations were selected, there were further challenges in organizing site visits and interviews for at least two of the organizations. There were also issues of trust given the suspected cuts to program funding.

As a corporate function, Evaluation, Performance Measurement and Review Branch does not necessarily have a relationship with Métis and non-Status Indian organizations or other Aboriginal organizations, and thus, it was difficult to establish the trust and buy-in from organizations without significant assistance from the Métis and non-Status Indian Branch and the Congress of Aboriginal Peoples (Congress of Aboriginal Peoples) (which was represented on the Evaluation Working Group), which at times had competing priorities.

Assessment of Outcomes and Attribution

The impacts of proactive reconciliation are difficult to measure concretely. As currently stated, the outcomes stemming from the bilateral and tripartite processes focus heavily on broad concepts, such as improvements in “ability”, “understanding”, and “coordination, influence, and management of public affairs.” There are little data available specific to program outcomes, as most of the data is transactional and activity-based.

With respect to attribution, the *Powley* Initiative has among its stated outcomes an improvement in participation in the economy, but any change or lack thereof in this indicator could hardly be attributed to harvester rights, particularly considering these rights only apply to federal lands and do not extend to commercial hunting rights.

2.4 Roles, Responsibilities and Quality Assurance

The Evaluation, Performance Measurement and Review Branch of AANDC’s Audit and Evaluation Sector was the project authority responsible for completing the evaluation with the assistance of *Stiles Associates Inc.* a consulting firm that conducted the case study component.

Quality assurance activities were put in place to preserve the quality of the data and ensure that the methodology selected was appropriate. These mechanisms included:

- ***Internal peer-review process at the AANDC Evaluation Branch:*** A member of the Evaluation, Performance Measurement and Review Branch not affiliated with the current evaluation reviewed the study for issues with methodology, data collection and interpretation.
- ***The evaluation working group:*** This group, headed by the evaluation manager, was made up of Métis representative organizations, federal partners, and AANDC program representatives. It was responsible for reviewing, validating and commenting on the choice of methodology, the preliminary findings and the final report.
- ***The Evaluation, Performance Measurement and Review Committee:*** This committee is made up of the Chief Financial Officer, the Senior Assistant Deputy Ministers and external experts. It is headed by the Deputy Minister of Aboriginal Affairs and Northern Development Canada. It was responsible for approving the evaluation’s Terms of Reference, Preliminary Findings report, the final evaluation report and Management’s Response and Action Plan.

3. Evaluation Findings - Relevance

3.1 Continued Need

3.1.1 *There is a need for the Government of Canada to support pro-active reconciliation and management of Métis Aboriginal rights and the management of Métis and non-status Indian litigation*

The current legal and constitutional environment for Métis and non-status Indians remains uncertain and highly contentious. The growing climate of litigation around Métis and non-status Indians “rights” demonstrates that there is a need for the federal government, and specifically AANDC, to be engaged in activities that support reducing tensions and building a relationship based on trust and respect. To that end, interview participants suggested that there was a significant gap between the two main elements of FICP; namely the proactive reconciliation versus the litigation aspect, and in effect, proactive reconciliation and litigation were seen as an odd combination of priorities, particularly given the stated outcomes.

The legal questions are not about whether or not the Métis exist, but whether under Section 91(24) of the *Constitution Act of 1867* the Métis are included as “Indians” and thus, whether the federal government has exclusive jurisdiction over Métis. Métis people allege that the area known as the “historic Métis Nation Homeland” includes the three prairie provinces and extends into Ontario, British Columbia, the Northwest Territories and the northern United States. The Métis Nation is comprised of descendants of people born of relations between Aboriginal women and European men when distinct Métis settlements emerged as an outgrowth of the fur trade along freighting waterways and watersheds. However, since the resistance movements led by Louis Riel against the Government of Canada in support of Métis rights during confederation, the relationship has continued to be highly tense and often only resolvable in the court systems. Various court cases have sought to answer the questions of: Who are the Métis? Do they have rights? What are their rights? And which government has exclusive jurisdiction over the Métis?

This need for reconciliation is now further reinforced by Justice Michael Phelan in the 2013 Federal Court decision where the Métis were deemed to qualify as being “Indians” under the 1867 *Constitution Act*. The court declined to articulate whether the federal government is obligated to provide services similar to Indians registered under the *Indian Act*, otherwise known as “status Indians”⁴ such as health, education and land. The federal government is appealing the decision. According to a prominent Métis lawyer, the implications of the case are that “It comes

⁴ Importantly, Status Indian is not a legal term and not used in any legislation. It is used in the population to identify people who are on the register of Indians created under the *Indian Act*.

down to a question of whose door the Métis go knocking on... It's a classic Canadian dilemma: Are the Métis a federal or a provincial responsibility?"⁵ The court case, if upheld, means that the federal government has jurisdiction over the Métis, but how it exercises that jurisdiction remains to be identified.

At this point, it is important to note that having law-making jurisdiction does not compel a government to act. It has been the longstanding position of the federal government that programming off reserve for Métis and non-status Indians have been policy choices and not legal obligations. However, in light of these debates of jurisdiction and the heightening expectations to recognise Métis rights, provincial governments continue to take the position that the off-reserve population falls within federal jurisdiction and are thus, slow to develop policy and programming.

Despite the jurisdictional debate and the potential overturning of the *Daniels* Case, Métis rights are gradually being affirmed by the Supreme Court of Canada. Therefore, reconciling the existence of these rights within the federation in a responsible and pragmatic fashion will be an ongoing responsibility of AANDC in managing federal interests as well as maintaining federal relations with the Métis and non-status Indians.

Similarly, although the federal government may not have a legal obligation to provide the Métis and non-status Aboriginal peoples with programming and services, the Manitoba Métis Federation Supreme Court decision in 2013 reinforces the need for pro-active reconciliation. Specifically, there is a need for strategies that address the historical tensions and disagreements that began with confederation. At the time of the passing of the *British North America Act* in 1876, the Red River Settlement in Manitoba had 12,000 people, about 10,000 of whom were Métis. Today, there are approximately 420,000 self-identified Métis (though it is unknown how many meet the criteria set out in *Powley*) in Canada comprising 30 percent of the total Aboriginal population of 1.4 million. Western Canada and Ontario are home to the majority of the Métis population (86 percent) with the vast majority (71 percent) living in urban centres. Métis representatives continue to look to the federal and provincial governments through the court systems to uphold their "rights" and provide specialized programming and services.

To summarize, "what is at issue is a constitutional grievance going back almost a century and a half. So long as the issue remains outstanding, the goal of reconciliation and constitutional harmony, recognized in s.35 of the Charter and underlying s.31 of the *Manitoba Act*, remains unachieved. The unfinished business of reconciliation of the Métis people with Canadian sovereignty is a matter of national and constitutional importance."⁶

⁵ Jean Teillet, a Vancouver lawyer with expertise in Métis issues speaking at the 2013 Pacific Business & Law Institute Conference on the *Daniels* Case

⁶ MMF Decision, paragraph 140

3.1.2 *There is a need for bilateral and tripartite forums in order to provide a space for open discussion, relationship building and developing practical work plans for improving the socio-economic conditions of Métis and for non-status Indians.*

To respond practically to the assertions of rights by Aboriginal groups, there is a need for regular and formal communication between these key players to articulate how the federal government and provincial and territorial governments will manage communities' demands to harvest when claimants are outside of treaty obligations.

According to representatives at the negotiation tables, AANDC develops policies and programs for Métis and non-status Indians within an unclear legal reality, and the forums provide an outlet for understanding who are the Métis, where they are located and how the federal and provincial governments can respond to demands in a coordinated manner. For example, in July 2013, the Métis National Council and Congress of Aboriginal Peoples, along with other National Aboriginal Organizations leaders, met with Canadian premiers to discuss issues that face Aboriginal peoples living off reserve. The priorities discussed included a call for a national inquiry into missing and murdered Aboriginal women and girls, availability of affordable housing for off-reserve Aboriginal peoples, and the participation of federal and provincial governments, and the Métis National Council in development of a long-term Métis economic development strategy. The leaders of both Métis National Council and Congress of Aboriginal Peoples expressed the benefits of being able to openly discuss these issues, and that “it will help create a solid foundation for moving forward”⁷.

The forums provide a mechanism for building a relationship between all the players - despite divergent opinions about jurisdictions - to foster trust. Additionally, there is the opportunity to focus on practical discussions and to establish mechanisms of self-governance in institutions. They are process tables that help to build relationships and identify practical solutions in a murky and often highly political and emotional environment. The need for these process tables is also supported by the fact that those self-identifying as Métis are growing dramatically, having increased 16 percent between the 2006 and 2011 censuses.

Case studies also revealed that Métis and non-status Indians have often felt overlooked at the provincial and national levels. Forums thus provide a political focus on Métis issues allowing for a partnership relationship between the federal government, the provinces and the Métis and non-status populations. The National Chief of Congress of Aboriginal Peoples stated in June 2013, in response to the *Daniels* case, her belief “that the recognition given by the Court with respect to the identity question has provided [Congress of Aboriginal Peoples] with a unique opportunity to begin a new era of collaboration rather than following a never ending and

⁷ Lavallée, Betty Ann (Congress of Aboriginal Peoples National Chief). 2013. Remarks on the annual Council of the Federation meeting. Retrieved Aug. 6, 2013 from <http://www.abo-peoples.org/caps-national-chief-betty-ann-lavallee-meets-with-canadian-premiers/>

expensive course of litigation. However, this can only be accomplished if we are willing to set aside the past, and begin by recognizing that the current *Urban Aboriginal Strategy* does not meet the needs of the over 70 percent of Aboriginal Peoples now living off reserve. Furthermore, our Aboriginal youth is the fastest growing demographic in Canada... To start, we need to have an honest and open dialogue about Aboriginal-specific policies and programs that confront the issues facing the growing Aboriginal migration off reserve... Where are the targeted off-reserve policies and programs in the areas of child and family services, funding for community economic development strategies, job training and skills development, justice services, and health services? This is what we need to talk about as they are of great importance and concern to Aboriginal peoples....”⁸

According to a lawyer working for a provincial government at a discussion table, there are two key reasons that discussion forums and negotiations forums should take place: 1) they establish clear and formal constitutional relationships through agreements; and 2) they address immediate pressures on the relationship. Similarly, forums can be used for a wide scope of discussions, including:

- Identification of the core historic collective – including both demographics and geography
- Identification of modern counterpart to the above
- Identification of individual members of the community
- Identification of appropriate modern representative and the internal mandate/organization of that representative
- Geography of established rights or assertions
- Nature of rights or assertions
- Limitations on exercise of established rights/assertions (internal or external)
- Stewardship of the resources at issue
- Consultation/engagement regarding any agreement with outside groups, including First Nations and other Métis groups
- Implementation/Mechanics – including use of registries/keepers of registries/ identification cards
- Any need for additional agreement/work/research
- Fulfilling Crown’s duty to consult

In absence of such forums, interviewees believed that the federal government will face challenges and even violence such as in the development of national and provincial parks in contested Métis territory.

⁸ <http://www.abo-peoples.org/opinion-from-the-national-chief-of-the-congress-of-aboriginal-peoples-betty-ann-lavallee-where-do-we-go-from-here-canadas-forgotten-peoples/>

3.1.3 *There is a need for capacity building support to facilitate Métis and non-Status Indian organizations' ability to meaningfully represent their members in reconciliation discussions at the federal level.*

According to interviewees, meaningful bilateral and tripartite forums cannot take place without Métis and non-Status Indian organisations that are able to represent the priorities of their members. However, the ability of these organisations to do this is largely dependent on funds from FICP as Basic Organizational Capacity Funding was not sufficient for addressing the development of adequate organizational policies, procedures, governance structures and program designs. The capacity building mechanisms supported by FICP funding were considered necessary to allow organizations to provide input and feedback to the federal government, agencies and departments on policy issues and programs that affect Métis and non-status Indians.

As this population continues to grow, extensive capacity building support is a priority for representative organizations as they seek self-governance objectives. Currently, organizations are struggling with governance issues that are interfering with meeting their program and representation objectives. Some national organizations and their affiliates face various governance and internal management issues, including carrying significant financial debt and/or monies owed to the crown, weak financial controls, and internal division between eastern and western affiliates, which threaten their overall sustainability over the long term. The credibility of affiliates has also been seen to be a challenge.⁹

Case study participants cited incongruence between the priority and attention given to First Nations compared to Métis and non-Status Indians, both from the perspective of rights recognition to support for capacity for representation and social programming. Capacity support was seen by these organizations as essential to peaceful and productive relations with governments.

Strong capacity was also seen as essential to enable Métis and non-Status Indian organisations to deliver targeted and practical socio-economic programming to their members in order to improve education, health and employment outcomes. Additionally, a recent study by the Canadian Chamber of Commerce identified the unique opportunities and challenges offered by Métis people in addressing the private sector's labour market needs: "The Métis are young, urban and highly mobile. Relative to the broader Aboriginal population, the Métis have better economic, social and health outcomes, making them an ideal source of labour for long-term engagement... However, Métis education and labour market outcomes are less positive than those of the non-Aboriginal population."¹⁰

⁹ Aboriginal Relations and External Relations: MNSI Relation and Policy 101 – Presentation for the PSD ADM June 2012

¹⁰ Chartier, Clément. June, 2013. "Métis Nation and Canada's Labour Development. The Hill Times, p. 1. Retrieved from <http://www.metisnation.ca/wp-content/uploads/2013/06/draft-PDF2-Newsletter-July-2013.pdf>

3.1.4 There is a need for funding a sophisticated Métis registration system that allows for the monitoring of sustainable harvesting

The current academic debate on who are the Métis, where are they located and what are their historical “rights” is an intense discourse that highlights the difficult context in which AANDC crafts policy and program responses. The historic legal contentions are illustrated by Jean Teillet of Pape Salter Barristers and Solicitors:

Métis *collectives* were only permitted to take treaty if they agreed to become “Indians.” At other times, Métis were told they had to choose. The available choices were to identify as ‘Indian’ or ‘white.’ If they chose to identify as Métis collectives, they were generally denied participation in treaty. The treaty process was used not only to contain and define Indians it was also used as a mechanism to eradicate any possibility of the Métis as a people. After 1870, this process was continued when Canada decided to implement a scrip process to extinguish any Indian title individual Métis might possess. This process finally was implemented beginning in 1885. It is notable because even though Canada created no bureaucracy comparable to the Department of Indian Affairs to regulate the Métis as a people, the scrip record contains a thorough record of the Métis who lived in, used and occupied the Northwest. After the scrip process was completed, the Métis virtually disappear from the historic record. In the eyes of the state, the Métis people were henceforth invisible.¹¹

Prior to the 2003 *Powley* Decision, the concept of Métis Aboriginal harvesting rights was not recognized by federal or provincial governments. Following the *Powley* decision, AANDC took the initiative of assisting Métis organizations in identifying and enumerating their members. The Supreme Court noted in *Powley* that it is not the role of the courts to identify Métis rights holders case by case – rather, that “a more systematic method of identifying Métis rights-holders for the purpose of enforcing hunting regulations is an urgent priority” as to avoid extensive litigation where it is not wholly necessary.¹²

Although it is a priority to identify who exactly has harvesting rights, Métis organizations and their members argue that traditionally the Métis were and continue to be a highly mobile population. Spatial issues regarding the extent of traditional territory belonging to Métis communities continue to be addressed in case law.¹³ This poses significant identification issues as the Métis migrate from province to province; for example, transferability of legitimate harvesting cards between provinces as well establishing what is the historic Métis harvesting territory. Additionally, although registration systems have been established in Ontario, Manitoba,

¹¹ Teillet, Jean. 2009. Métis Law Summary. Pape Salter Teillet Law, p. 4 <http://www.pstlaw.ca/resources/MLS-2009%20FINAL.pdf>

¹² Barr & Schnuerer, 2005

¹³ Lavolette (2005), Belhumeur (2007), and Goodon (2009)

Saskatchewan, Alberta, and British Columbia, some Métis political organizations argue that the Métis right to harvest can be proven in other provinces and territories as well.¹⁴ Furthermore, since the *Powley* decision, commercial harvesting rights have not been awarded in litigation, though this issue may be raised in future litigation.¹⁵

Not only are there complex policy decision to be made by the federal government, other federal departments – particularly the RCMP and Environment Canada, look to AANDC specifically to provide leadership in identifying and clarifying Métis harvesting rights and to provide membership information to enable them to enact the appropriate approach to Métis harvesting rights from a law enforcement and conservation perspective..

AANDC developed an approach of supporting the Métis National Council to develop provincially-based lists of *Powley*-qualified Métis in order to disseminate harvesting cards to vetted members of the community. Approximately 57,238 Métis have been identified so far on the five provincial registration systems. For Environment Canada, tracking Métis with harvesting rights is necessary for sustainable harvesting of migratory birds - which are a federal responsibility and is also of importance to the United States and Greenland - and protecting wildlife biodiversity.

For Environment Canada (Canadian Wildlife Service), understanding the harvests of migratory birds by right bearing Métis communities is important for sustainable harvesting of migratory birds and their continental management. Canadian Wildlife Service provides funding support to Métis organizations in order to build their capacity in tracking the harvesting of migratory birds through surveys. Most of the organizations rely on AANDC supported registries for generating the harvester and harvest related information. Further, Environment Canada (Wildlife Enforcement Directorate) also acknowledges the importance of maintaining the registries for providing national consistency of standards across the country and the accuracy of the information.

For the RCMP, the list and subsequent harvesting cards provided by some of the provinces facilitates law enforcement activities.¹⁶ Although the registries are limited to providing vetted identification, they have been useful in negotiating Métis harvesting Memorandums of Understanding in Ontario (1,250 provincial harvesting cards disseminated) and in Manitoba (5,157 provincial harvesting cards disseminated). Similarly, in Alberta, the case studies found that the Alberta registry has been useful for placing Métis children in Métis foster homes. Federal partners indicated that they are dependent on AANDC supporting the registry.

¹⁴ (Métis National Council, 2011).

¹⁵ Métis National Council, 2011

¹⁶ Interim Federal Guidelines: Approach to the Identification of Métis for the purposes of Federal Aboriginal Harvesting Policies

For the purposes of engaging in accommodation negotiations, the registries may also be useful for the federal government. Although all federal acts, regulations and policies take steps to accommodate the possible existence of Aboriginal rights to harvest, and to ensure that such a right is not unjustifiably infringed upon, it has been determined that prior to the Métis registration systems there were “little to no tools to identify a Métis individual on-the-ground for the purposes of implementing these regulatory mechanisms”¹⁷ as it is up to the Aboriginal collective to provide the proof of an Aboriginal right, if they so assert one. The Métis registries, thus, provide for a tool to identify members of potential right bearing communities with whom AANDC may have a duty to consult when planning to act in a way that could infringe their Section 35 proven or asserted right.

It is important to note that although there is an arguable need for identifying Métis members in order to accommodate harvesting rights, to engage in targeted consultations, and to potentially aid in facilitating negotiations at the provincial level, some interviewees found the concept of a list to be offensive as it again places the federal government and the courts in the position of deciding who are “the Métis”. Jean Teillet, a prominent Métis lawyer writes, “Métis identity is confusing to everyone”. According to her assessment, there are two types of individuals claiming Métis identity: those who consider themselves to be of mixed ancestry and originate anywhere in Canada - including the non-historic Métis area of Atlantic Canada - while others specifically trace their ancestry to the historic Red River community. For some identifying as Métis, it is a culturally formulated identity while for others, “it is the default definition for those not permitted to be status Indian and who were rejected as white”.¹⁸ Thus, while there is an obvious need for a Métis registrations system for the purpose of harvesting, there are contentious issues with the notion of identification.

3.2 Alignment with Federal Government Priorities and Departmental Strategic Outcomes

3.2.1 *Broad FICP objectives align with Federal Government Priorities, Departmental Strategic Outcomes; however, AANDC has not articulated clear and measureable outcomes and thus, it is not possible to assess the alignment of outcomes with the Government’s strategic priorities.*

The objectives of the FICP are situated within the Program Alignment Architecture under the “Government” strategic outcome, contributing to: “*Good governance and co-operative*

¹⁷ Interim Federal Guidelines: Approach to the Identification of Métis for the purposes of Federal Aboriginal Harvesting Policies

¹⁸ Jean Teillet (2009: 3) (<https://ejournals.library.ualberta.ca/index.php/aps/article/viewFile/11687/8920>)

relationships for First Nations, Métis, non-status Indians, Inuit and Northerners.”¹⁹ The FICP is the primary vehicle for the Government to proactively manage Métis and non-status Indians rights in a spirit of achieving reconciliation consistent with the direction stipulated by the Supreme Court of Canada through a balanced, pragmatic and responsible approach. Of key importance, however, is that while the program has some clearly stated objectives with respect to Métis registration systems and reconciliation activities, there are no clearly stated tangible outcomes and no performance measurement strategy. It is thus not possible to assess the alignment of outcomes with Government priorities.

3.2.2 *The roles of each government department, including the leadership role of AANDC, are appropriate.*

Given the general objectives of the FICP and *Powley* activities, the evidence suggests that the general roles and responsibilities of each of the federal departments involved are appropriate. The leadership role of the federal government, and specifically AANDC, was found to be appropriate for five key reasons:

- (1) The constitution agreement negotiations of the 1980s created the need for tripartite forums. Seven tripartite processes in six provinces are currently underway, including British Columbia, Alberta, Saskatchewan, Ontario, Prince Edward Island and two in Manitoba. These processes cost a total of \$2,820, 000 annually, which is 50 percent cost shared with the six provincial governments. The negotiations focus predominantly on socio-economic issues and the coordination of Métis-specific services. As AANDC is the lead department dealing with issues of Aboriginal rights, its leadership role was seen as appropriate in this regard.
- (2) The 2003 *Powley* Decision to develop more clearly articulated policies and programs, and other similar court cases as indicated above, have provided AANDC with a clear mandate for Métis. Recent Federal and Supreme Court cases have heightened the expectations of Métis and non-status Indians for programs and services.
- (3) The recent Department’s Reports on Plans and Priorities state a commitment to Métis and non-status Indians organization capacity development. Also, in response to the 2003 Supreme Court *Powley* decision, the Department is also committed to Métis rights management, and “works with non-profit representative Aboriginal organizations that have substantial Métis membership to develop objectively verifiable member systems for Métis members and harvesters in accordance with the *Powley* decision”.²⁰ The Department stated in its Reports on Plans and Priorities that its efforts to meet these priorities will involve tripartite and bilateral relationships, providing funding through both the Basic Organizational Capacity Program and the FICP. The Department committed to strengthening federal-provincial relationships and improving

¹⁹ AANDC’s Program Alignment Architecture 2013/2014

²⁰ 2010/2011 AANDC Report on Plans and Priorities

communications to develop a greater understanding and a harmonizing federal-provincial approach to Métis Aboriginal rights.²¹ It also committed to increasing the economic development capacity within Métis and non-Status Indian and Aboriginal organizations by implementing trilateral economic development strategies. In the 2012-2013 Reports on Plans and Priorities, the Department also stated that it will continue to provide constitutional reform, electoral and governance support to Métis and non-Status Indian organizations so they are better able to take advantage of programs and services and better represent their members. The Department will continue to support the development and maintenance of objectively verifiable membership systems. This will include working with the Canadian Standards Association to develop approaches and standards to evaluate the systems.²² Finally, AANDC committed to meeting its responsibility as the Federal Interlocutor by advocating within government on behalf of Métis and non-status Indians and Aboriginal organizations to ensure that their interests are reflected in consultation and accommodation matters.²³ In the 2011 Speech from the Throne, the Government made the public commitment to work with Aboriginal communities, provinces, and territories to meet the challenge of addressing barriers to social and economic participation that many Aboriginal Canadians face.²⁴

(4) The role has evolved from being the point of first contact between Métis and non-status Indians and the federal government (the bilateral political relationship with the Métis National Council and the Congress of Aboriginal Peoples) to advocating in Cabinet for consideration of Métis and non-Status Indian issues and concerns (1985) for the purposes of working towards achieving practical ways of improving Métis and non-Status Indian socio-economic conditions. According to interviewees, a well-coordinated single point of entry is necessary for these groups to work with the federal government in the management of rights demands.

(5) The heightening expectations of the Métis and non-status Indians for programs and services to be provided at the federal or provincial levels reinforce the importance of having a federal representative working with provincial representations to manage expectations in a coordinated fashion.

3.2.3 Representative organizations found FICP funded activities to not be well-aligned with the priorities of Métis and non-status Indians representative organisations.

Interviews with federal partners illustrated that Métis and non-Status Indian organisations are dependent on AANDC to provide a list of *Powley*-qualified Métis with which they will conduct their business. The federal partners are waiting on AANDC to provide further indications of whether or not and how additional programs and services could be incorporated into existing

²¹ 2011/2012 AANDC Report on Plans and Priorities

²² 2010/2011 AANDC Report on Plans and Priorities

²³ AANDC. 2012, 2011/2012 Departmental Performance Report,

²⁴ *Ibid*,

programming. According to one interviewee, “The Métis will continue to use the courts until [AANDC] addresses how business is to be conducted with Aboriginal People.” Similarly, interviewees suggested AANDC decisions were reactive to legal outcomes instead of resulting from a comprehensive understanding of needs and reconciliation priorities. The evaluators did, however, find anecdotal evidence of the pro-active role of the RCMP through the approach of funding a community liaison position that allows their department to move away from just maintaining law and order to being able to raise awareness, build relationships in the community and conduct outreach and engagement activities.

Even with an established federal responsibility to manage the relationship with Métis and non-status Indians, there are still many questions surrounding the scope of Métis rights such as: could Métis rights be found elsewhere in Canada? Could the nature of Métis Aboriginal rights extend beyond harvesting for food? Could there be Métis groups who may be able to bring credible claims to both commercial harvesting rights and Aboriginal title? And will Métis rights claims receive the same importance by the courts to those of First Nation or Inuit Aboriginal rights? This demonstrates that there is a need for an avenue through which Métis and non-status Indians can work with the Government to address these uncertainties. Otherwise, these issues may be left to court decision-making processes.

Several organizations noted that restrictive or inadequate funding impedes good alignment with their priorities. For example, one organization described the scope of activities that can be funded under *Powley* as too restrictive and the basic organizational capacity program as inadequate and too rigid to meet its needs. Another organization said the FICP mechanisms fail to provide adequate funding for administrative costs, including a comprehensive human resources function, severance pay, legal fees in the case of lawsuits, and other support functions: “*There is no real consideration of what the costs are for the functions they are supposed to be supporting.*”

Some organizations expressed the view that the mechanisms do not align because they are implemented in ways that impose heavy government oversight and discourage ownership by the recipient organizations of their own development priorities. One organization said the level of government oversight is such that a funding proposal virtually becomes the Government’s document rather than the organization’s own document: “*The things we propose are considered too controversial. There are constant revisions and ten levels of approval. It is not an arm’s length relationship, it is too controlling... We always have to make sure our bilateral program is meeting current government priorities.*” It should be noted that although national and international academic literature points to the necessity of having long-term work plans and consistent funding for achieving those plans in order to make substantial gains in socio-economic well-being of communities, the representative organizations that AANDC supports are primarily political entities. Thus, the organizational views and desires for activities are often at odds with the priorities of the federal government in areas such as supporting rights lobbying activities.

This inherent misalignment requires substantial negotiations between the Department and the funded recipients to ensure activities will achieve practical gains for community members.

One organization connected the lack of alignment between FICP and development priorities in Métis and non-Status Indian communities to an absence of infrastructure in the federal government for the Métis. This organization noted that such infrastructure exists for First Nations, citing the examples of registries, Health Canada's First Nations and Inuit Health Branch, and more generous funding for elections.

Only one organization recognized some alignment with Métis and non-Status Indian priorities, noting that the tripartite process gave Aboriginal people more voice and addressed employment priorities. However, the same organization noted that priorities raised through the tripartite process did not always translate to action and services on the ground.

4. Evaluation Findings – Performance (Effectiveness and Efficiency)

4.1 Effectiveness

Overall, the funding of Bilateral and Tripartite Forums, cultural celebrations/commemorative/reconciliation events, community engagement of RCMP officers, organizational capacity building for representative organizations and the development of registration systems has produced some considerable gains: (1) the Métis have gained rights to harvest freely without regulation, including ability to harvest all year round, on federal territory; (2) the Métis have gained free federal park entrance, including abilities to perform spiritual/ceremonial traditions; (3) over the past five years, the Métis have gradually been recognized as another key group in Canada that should be awarded rights and as such, are being engaged on the co-management of the environment along with First Nations and Inuit; (4) practical socio-economic work plans have been established at the provincial levels to address Métis and non-Status Indians needs; (5) representative organizations have built their capacity to better represent and provide services to their members; and (6) by providing additional harvesting access, the federal government has validated the Métis existence – an important step for fostering reconciliation.

4.1.1 Discussions and negotiations occurring within the bilateral and tripartite forums are allowing partners to (1) better understand Métis and non-status Indians issues; (2) to manage demands for rights in a consistent manner; (3) develop institutions of self-governance; (4) develop economic development strategies; and (5) develop culturally appropriate education programs to promote secondary school completion.

Section Note: Although the previous evaluation was able to identify key successes and challenges from the bilateral and tripartite forums, this evaluation struggled to gain access to the representative organizations due to a heightened level of mistrust of the federal government because of recent AANDC funding cuts and the federal government's appeal of Daniels case. Despite these limitations, the evaluation was able to make some general observations based on case studies with four representative bodies, interviews with federal and provincial partners, and annual forum reports.

The previous evaluation found that the Canada-Métis Nation Framework Agreement between the Métis National Council and the Government of Canada signed in 2005 and the Accord on Cooperative Policy Development, signed in 2005 between Congress of Aboriginal Peoples and

the Government of Canada, marked major progress in those organizations’ relationship with the Crown. Additionally, the previous evaluation concluded that:

Office of the Federal Interlocutor was pivotal in successfully leading the federal government’s response to the *Powley* decision. Office of the Federal Interlocutor brought a single point within the federal system for dealing with the management of Métis Aboriginal rights, both externally and as a point of cohesion within the federal family. When asked whether the *Powley* Initiative had succeeded in developing and implementing a coordinated whole-of-government approach to managing Métis Aboriginal rights, officials of the federal departments interviewed uniformly attested ‘yes.’ One senior enforcement official stated that the initiative marked “probably the best practice in a long, long time in terms of integrating the federal departments.”

The previous evaluation provided evidence of a coordinated federal approach, which was found to remain strong in the current evaluation. Interviewees indicated that the federal partners are well engaged at the bilateral and tripartite forums, that AANDC was seen as “a good partner at the discussion tables” and that the federal interdepartmental working group is useful for information sharing. The coordinated approach at the forums was found to be extremely useful for the federal and provincial government representatives to understand the desires of the Métis and Non-status Indian communities and to develop stronger relationships with the Aboriginal representative bodies: “because we are at the table or on the phone weekly with the organizations, this gives us a good idea of what their needs are and what issues they are struggling with.”

Program documentation indicates that tripartite processes have supported the creation of institutions of self-governance in the areas of education, economic development, child welfare and justice:

Province	Education	Economic Development	Child and Family Welfare	Justice	Other
Alberta	Rupertsland Institute	Apetogosan			Métis Urban Housing Corporation
Manitoba	Louis Riel Institute	Métis Economic Development Organization	Métis Child, Family and Community Services Agency Métis Generation Fund for Resource and Energy Development	Métis Justice Institute	Pemmican Publications- to promote Métis authors
Saskatchewan	Gabriel Dumont	Clarence			

	Institute	Campeau Saskatchewan Métis Development Corp			
Ontario		Infinity Properties			

The forums have had several key accomplishments (see Appendix A), which have advanced the issues.

Additional impacts of the forums have been the conceptualization and coordination of the Métis Economic Development Symposia held in 2009 and 2010 and partnership work on developing culturally appropriate curriculum to reduce school drop-outs rates.

The first multi-stakeholder economic development strategy process was initiated by the Government of Manitoba who invited Minister Chuck Strahl to participate in the process with the Manitoba Métis Federation. A Métis Economic Development Table was established to oversee and provide direction for the preparation of the Strategy. Recognizing that this Manitoba model was useful and necessary for Métis organizations, the Office of the Federal Interlocutor initiated discussions to develop similar economic development strategies with the assistance of provincial governments and Métis National Council affiliates in Ontario and British Columbia. Strategies have now been completed with the following:

Manitoba Métis Federation	Completed in 2007/08
Métis Nation of Ontario	Completed in 2008/09
Métis National Council	Completed in 2009/10
Métis Nation of Saskatchewan	Completed in 2009/10
Métis Nation of British Columbia	Completed in 2009/10

These initiatives led to the first Métis Economic Development Symposium being hosted in Calgary in 2009 by the Honourable Chuck Strahl and then by Honourable John Duncan in Vancouver in 2011. The meetings of ministers and Métis leaders stem in part from the Métis Nation Protocol that was first signed in 2008 between AANDC and the Métis National Council (Métis National Council), committing the two parties to work on a range of issues, and the Federal Framework for Aboriginal Economic Development, which represents a fundamental change in how the Government of Canada supports Aboriginal economic development. Since the launch of the Framework, the Government has contributed over \$45 million annually to support Aboriginal business development, Aboriginal participation in large scale resource and energy development projects, and Aboriginal access to capital for business development opportunities.

In terms of curriculum development, four of the forums (Ontario, Manitoba, Alberta and British Columbia) are actively working to develop appropriate education strategies through after school programming, mentoring support and providing incentives for enrolling in post-secondary

education. The FICP is specifically helping to fund initiatives such as the Pathways to Education programming and the First Nations, Métis and Inuit High School Graduation Coach Program to target urban Aboriginal students.

Key challenges to achieving practical gains in the forums included:

- Organizations' current debt levels continue to plague ability to productively move forward.
- Competing Métis organizations.
- High staff turn-over, inconsistent leadership, divisions within the Board of Directors within organizations.
- Reporting and audit challenges within organizations.
- Managing the organizations' high expectations for funding and programming and thus the parameters of discussions/negotiations.

This evaluation was unable to assess the extent of the practical gains at the community level as a result of the seven tripartite forums and the two bilateral forums. However, provincial representatives sitting within these forums did express that despite many of the jurisdictional issues that continue to prevent more concrete activities, AANDC is seen to be a good partner at the table and that it has been important for all stakeholders to see federal faces represented so as to build trust and respect "and see that the Government is in fact ordinary people". Interviewees also noted that the forums are operating in a similar manner with the goal of achieving practical gains. Templates are used to guide discussions that include identifying priority areas where the representative organizations will choose priorities, and then together negotiate long-term objectives, activities, expected results, budget, and expected date of completion. Additionally, the services delivered by the institutions created by the tripartite process are seen by participants to be of great value and importance to constituents as well as having significant symbolic value. According to the case studies, however, recipient organizations identified a lack of funding for new initiatives as a challenge in achieving their goals.

4.1.2 The federal government is doing more to recognize Métis contributions, but there is a general acknowledgement that Métis contributions go unrecognized in Canada.

One of the FICP activities is to organize commemorative events and engage in gestures of reconciliation across Canada in order to recognize Métis contributions and increase understanding of Métis history and culture within Canada. (Appendix B identifies completed activities since 2008)

The Parks Canada Agency also holds the mandate of increasing awareness of Métis history and culture and does so through storytelling activities within federal parks. Parks Canada's role of storytelling was found to be appropriate as they are uniquely placed to support the Métis to interact with and tell their story to the Canadian population. This was found to be especially

important when explaining why Métis have harvesting rights in the parks, as interviewees indicated that there is a need for a common understanding that FICP is providing historically-based rights instead of providing race-based rights. However, interviews with provincial representatives demonstrated that there is a lot of public discourse about who are the Métis and their place in Canada as a result of court cases occurring across the country and that media coverage is displaying a lack of understanding on behalf of the general public. Some provincial representatives discussed backlashes due to a lack of empathy in the general public.

4.1.3 *Powley registration databases have been developed and are functioning; however, they are not standardized across regions and lack the capacity to accommodate the volume and complexity of Métis identity issues.*

The previous evaluation found that:

The membership registry element of the *Powley* Initiative was critical in complying with the Supreme Court instructions. “As Métis communities continue to organize themselves more formally and to assert their constitutional rights,” the *Powley* decision stated, “it is imperative that membership requirements become more standardized so that legitimate rights-holders can be identified.” The evaluation results indicate progress in this regard—although the membership registries are now at varying stages of completion and rigour across the provinces.

From a legal perspective, the previous evaluation also noted that, “federal litigation experts suggested that registries will prove important in future cases. If properly developed and maintained, such registries will provide invaluable evidence indicating who are rights-holders.”

This evaluation has found that *Powley* registration databases have been developed and are functioning in Ontario, Manitoba, Saskatchewan, Alberta and British Columbia, with approximately 57,238 *Powley* qualified members now registered at a cost to AANDC of approximately \$1 million per organization per year (\$40 million over nine years) or \$700 per registrant. The membership systems allow for five outcomes:

1. Determining who is eligible to vote and hold office in the organization;
2. Helping to determine and monitor who has access to programs and services (note that the registries do not themselves provide access to programs and services but facilitate the negotiation and proof of identity for agreements);
3. Facilitating communications with the organization’s members;
4. Identifying those members with specific rights and benefits; and
5. Providing statistical information for policy purposes.

Interviews and case studies confirmed that although functional systems have been developed, there is a need to develop a more standard, credible, and practical system. The case studies also revealed that there may be difficult relationships between the Métis National Council and its

affiliates managing the databases. As a result, efficiency gains may be made if AANDC were to work directly with those affiliates in standardizing and maintaining those systems.

To be registered as Métis, one must apply to the Métis Registry operated by the Métis National Council Governing Member in the province in which that person resides. Each Registry has its own application forms and application process. Application forms can usually be downloaded from the Registry's website or can be obtained in person at the provincial office or regional offices of the Governing Member in question or can be mailed to the applicant. However, current application processes differ between provinces and are not verifiable, and the new registries sometimes conflict with the pre-existing non-*Powley* membership registration systems in the same organizations, as well as with the registries maintained by other non Métis National Council affiliated Métis and non-status Indians and other Aboriginal representative organizations operating in the same areas (for example, Congress of Aboriginal Peoples' affiliates' membership registries).

At the moment, the registries: (1) allow the members to participate in the governance process of the representative organization; (2) provide a starting point for negotiations at the provincial level to determine harvesting rights; and (3) they provide proof of ancestry for access to various regional and federal programs and services. Agreements have been signed with Ontario and Manitoba, thus providing 1,250 harvesting cards in Ontario since 1999 and 5,157 in Manitoba since 2004. Additionally, other federal departments will potentially use the list to understand the scope and demographic information of Métis communities in order to design more targeted policies and programs. Provinces have started to explore other uses for the list. For example, in Alberta, the province is using the system to place children during child intervention and apprehension with Métis foster families.

The process for establishing the registries was led by AANDC providing funding to each of the Métis National Council affiliates who were then responsible for vetting membership applications based on the *Powley* established criteria. Although this approach was seen by interviewees to be more efficient than the federal government holding a centralized registry and that it provides the Métis with more autonomy, interviewees with provinces and the federal departments indicated that there are concerns about how membership assessments were carried out and that an external evaluation of each system will be necessary in order for the provinces to feel comfortable in using the list for further negotiation purposes. AANDC is currently looking to fund such an assessment of the system, with the goal to have membership cards that are verifiable and can be used like status cards with solid proof of background attached to them.

In 2008, the Institute of Governance and the Office of the Federal Interlocutor conducted an initial review of the Métis membership systems, analyzing five Métis National Council regional affiliates: Métis Nation of British Columbia, Métis Nation of Alberta, Métis Nation of Ontario, Manitoba Métis Federation, and Labrador Métis Nation (now the Nunatukavut Community Council, which is no longer being funded under this stream as a result of revisions to its membership criteria making it no longer eligible). This assessment scored each registry system based on indicators for six key elements of an objectively verifiable membership or harvester system: 1. Coherent and standardized membership codes; 2. Effective and transparent registration process; 3. Accessible, independent review and appeals; 4. secure information; 5. Secure identification; and 6. Adequate resourcing and review of procedures. With the exception of Métis Nation British Columbia, which scored high, the Métis organizations scored adequate or lower on their conformance to the assessment standards. The general conclusions of this assessment were that those registry systems, which have matured more quickly than others, possessed superior internal capacities such as early and strong support of political leadership, sustained attention of registrars to establish policies and procedures to guide the registration process, early attention to securing the required staff to manage the registry, and an abiding sense of the further uses and larger purpose of the registry as the foundation of the organization.²⁵

Since this Initial Assessment, AANDC has continued to work with Métis organizations to develop harmonized registry standards across provinces. Additionally, the Canadian Standards Association is working with the Government and with funded Métis groups to design a method for verifying the quality and integrity of membership systems. AANDC is working towards having the five Métis registration systems objectively verifiable by a target date in 2017.²⁶ However, interviewees pointed out that the assessment may lead to the need to establish a more standardized approach that could result in the need to revoke some memberships, which would cause further tensions amongst Métis members. Similarly, tension is already being felt within these organizations that have pre-established members that do not meet the *Powley* test and are thus offended by the implication that they are not truly “Métis”. In response to this challenge, representative organizations have created separate lists of members that are not *Powley*-qualified members so as to not alienate these individuals claiming Métis status. These processes thus carry a risk of de-stabilizing AANDC’s intentions to build stronger relationships. As such, the Department needs to be prepared to engage Métis and non-Status Indian organizations to mitigate this risk. Challenges are also being faced due to opposition from the Métis National Council, which has resulted in time delays.

²⁵ Institute on Governance. 2008. Review of the Métis Membership Systems: An Initial Assessment.

²⁶ AANDC. 2012. 2011/2012 Departmental Performance Report. <http://www.aadnc-aandc.gc.ca/eng/1351797851955/1351797915650>.

An additional challenge of the established registries is their limitations in geographic accessibility. As one academic writes, “The evidence suggests that the Métis who lived in, used and occupied this vast area, the Northwest, were connected and formed one large historic society founded on kinship, a shared economy and a common way of life. Mobility, one of the primary characteristics of this Métis community, was the glue that kept the people connected throughout this vast territory.”²⁷ However, the registries are limited by provincial boundaries. One must go to their originating territory to apply for membership. According to Arsenault & Sharp writing on the subject, “The growth in the Métis population since 1996 (nearly doubling by 2006) suggests that this disaffected group of Métis is large and growing. Although increased Métis self-identification can be interpreted as encouraging in that it means that Métis people feel increasingly secure and justified in self identifying, it poses significant statistical challenges to the accurate tracking of Métis socio-economic progress.”²⁸ Similarly, a lot of background information is needed to verify a Métis individual, and membership requests are increasing substantially as a perceived result of the very public Federal and Supreme Court cases. Proof of identity was found to be a barrier for many individuals but was seen as the only way to prevent over-registration and fraudulent use of harvesting rights.

Organizations stated that they do not have the funding and human resources to keep up with the number of new applicants resulting in extremely long waiting times for applicants to receive membership confirmation. Similarly, documents reviewed demonstrate that registry systems require a long term financial commitment to be verifiable in order to appropriately inform policy. Given the infancy of the systems, the funding mechanisms, and year-to-year capacity issues - the implementation of systems, processes and keeping trained personnel has been a challenging task. To date, developing objective membership systems of this complexity has been funded at just under \$1 million per year per organization (\$30 million over seven years). An objectively verifiable process requires many steps in the process for each application, with checks and balances, competent staff, and a requirement for rigorous data collection. Applicants often are challenged to, or do not have the means to, provide the information required by the organization, thereby delaying the processing of the application.

On the other hand, without a clearly defined legal and policy framework for Métis identification, the Department, as well as Métis organizations, run the risk of high influxes of applications as well as multiple upstart organizations, where there is a high degree of contention over the definition of what constitutes a rights-bearing Métis person.

²⁷ (<http://www.pstlaw.ca/resources/MLS-2009%20FINAL.pdf>)

²⁸ Arsenault & Sharpe, 2009

According to a lawyer working on Métis litigation, “After the *Daniels* case, all of a sudden people are remembering that they are Métis”.²⁹ These events, combined with overwhelmed registration systems, create a high risk environment for managing harvesting activities. Similarly, although there have been approximately 12 unsuccessful cases in the east coast for individuals claiming Métis rights in the courts³⁰, the *Daniels* case may heighten the desire of individuals to try to seek rights through organizations or through the courts.

4.1.4 *There is some evidence that representative organizations’ capacity is improving, particularly in stronger organizations with low staff turn-over rates.*

The case studies found that the FICP processes and the *Powley* Initiative have helped organizations be more effective in key functions. At the same time, lesser successes were found in helping organizations set objectives and priorities and improving accountability. Yet, in a few cases, such as tripartite negotiations with the Manitoba Métis Federation, organizations are increasingly displaying improved governance and are able to provide comprehensive and tailored services to their members. As one of the oldest tripartite tables, the Manitoba Métis Federation table created the Louis Riel Institute in 1995 and oversaw the devolution of Child and Family Services from the province of Manitoba to the Métis Child and Family Services Authority from 2004 to 2006. The Saskatchewan tripartite table, however, continues to be challenged by regional politics as was the case in the previous evaluation. Overall, organizational capacity trends were as follows:

- Performance of financial functions: Organizations have benefited from funding support, including developing policy manuals, implementing better financial management controls, carrying out current state assessments in finance and in human resources, and linking human resources data for employees to automated payroll administration.
- Ability to set objectives and priorities: Organizations reported that support received through FICP processes had contributed in this area by aiding in such matters as developing a strategic plan and formulating an economic development strategy. However, it was noted that the year-to-year nature of funding for bilateral processes impedes the ability of an organisation to plan for longer-term outcomes. The lack of predictable funding is one of the greatest impediments organizations face when attempting to foster sustainable socio-economic development.

²⁹ A lawyer working on a local Métis harvesting court case presenting at the 2013 Pacific Business & Law Institute conference

³⁰ Jason Madden of Pape, Salter Teillet Barristers and Solicitors

- Accountability to membership and federal government for funding: Support through FICP and *Powley* did help organizations in their accountability to membership. For instance, one organization held a workshop on Aboriginal governance, representation and accountability and is planning to hold town hall meetings with its regional affiliates. Another organization was able to develop tools to be more accountable in reporting to citizens and government and to consult communities to improve its registry system.

However, one organization expressed the view that restrictions in the bilateral program funding are an obstacle to being accountable to affiliates, for instance when it wants to consult affiliates on current rights cases however, AANDC will not cover travel costs for this purpose. Another organization said it had become more accountable, but considered the extensive reporting required from the federal government to be a challenging.

Provincial interviewees noted that organizational transparency and accountability remain huge challenges for the organizations especially in provinces where there are differing entrenched positions. Interviewees noted some issues with elections and the funding of executives. For example, in Saskatchewan the Hallux Report 2011 was necessary due to political struggles within the Métis population and accusations of executive fraud. The report found evidence of poor tracking and financial reporting, but did not support allegations of fraud.

- Organizational governance: Organizations reported that progress had been made in strengthening organizational governance through improving internal governance processes by creating a policy manual for operations, splitting political roles from roles in administration, delivering governance training to board members, conducting research on governance issues, developing bylaws, membership codes, policies and procedures.

One organization noted that AANDC ultimately decides what can be funded in this area. This organization said it is not permitted to deliver the same workshop two years in a row. Another organization said the FICP processes and *Powley* had made no difference to its organizational governance since it had already established these structures before the processes were launched.

- In spite of capacity gains, there were some major concerns expressed by interviewees and representative organizations about the sustainability of the organizations and their abilities to effectively represent their membership in the long term. The organizations noted that they find it challenging to locate other sources of revenue and that they are unable to carry out the responsibilities expected of them from the federal and provincial governments and their members with their current funding levels. The case studies identified that the representative organizations struggle with attracting and retaining

qualified personnel due to the uncertain funding reality and the context in which they operate, which includes elections for board members every four years. These capacity limitations make organizations inherently unstable, potentially acting as an impediment to organizational capacity. Some organizations are looking to increase their funding through innovative approaches (i.e. Manitoba Métis Federation's Mother Earth program that involves mattress recycling) and through private partnerships.

Authoritative studies on capacity development suggest that organizational capacity is best developed when driven by the organization itself, rather than by external actors (See, for example, Baser and Morgan [2008], *Capacity, Change and Performance*, available at www.ecdpm.org) The Baser and Morgan study and others (see for example, Boesen and Therkildsen [2005], *A Results-Oriented Approach to Capacity Change*, available at www.evaluation.dk) suggest that organizational capacity development of the kind FICP is intended to foster requires timelines of 10 years or more. In international development circles, capacity development is recognized as a long-term process that is not amenable to rigid delivery pressures, quick fixes and short-term results seeking.

A growing body of literature points to the success of alternative models in tackling deep-seated social and economic problems faced by marginalized groups, such as Aboriginal youth. Collective Impact, one such model, contends that large-scale social change requires broad, cross-sectoral, coordinated interventions rather than isolated initiatives by individual organizations (see Kania and Kramer "Collective Impact," *Stanford Social Innovation Review*, Winter, 2011, available at www.ssireview.org).³¹ Best practices for the FICP to consider include the development of long-term capacity building plans for each supported organization that includes the ability to track the capacity gains being made for each organization.³²

4.1.5 FICP funded research activities are expanding the body of knowledge on Métis and non-status Indian issues. The information could be organized and disseminated more effectively

The FICP has regularly supported the funding of university professors and their students, as well as representative organizations and consulting firms to conduct relevant research in order to provide evidence for policy making. However, the research funding recipients interviewed were critical of the timelines imposed on contracts and of how the research is disseminated and stored once completed. Funded research topics have included the following:

³¹ The seeds of this model are apparent in the ACW case study.

³² AANDC need not look only at international examples. Some of the most innovative models have been tested by Canadian foundations. See, for example, the work of the J. W. McConnell Family Foundation (www.mcconnellfoundation.ca/).

- The Métis registration system including standards and policy options
- Emerging Realities of Métis, non-status Indians and Urban Aboriginal Populations: Building a New Policy Research Agenda
- The Well-Being of Communities with Significant Métis Population in Canada
- Best practices in the provision of education off reserve
- Best practices in the provision of health services off reserve
- Possible policy options for Métis Self-governance
- Defining Contemporary Métis Communities
- Economic development frameworks
- Urbanization and migration patterns
- Managing Aboriginal Rights Implementation Among Métis and non-Status Indians including Issues of Representation and Dissent

Interviewees stated that AANDC has “been really proactive in pursuing research and establishing an intellectual scholarly approach” but it was unclear as to why AANDC is funding the research. There were questions about what AANDC is trying to accomplish with the research and if their work is actually making a difference. The evaluation team could not find evidence of where the research was applied in a systematic fashion to the development of policies or programs.

4.1.6 The evaluation identified a number of additional community impacts.

As a result of Powley, individuals are gaining pride and enthusiasm about their Métis heritage: According to provincial representatives, it is unclear at this time if hunting practices have actually increased with the dissemination of harvesting cards. However, there was general consensus through anecdotal information that people are more open about talking about their heritage and being excited about their heritage.

RCMP coordinators that are funded by the authority for the pro-active reconciliation and management of Métis Aboriginal rights and that are placed in communities allow for better community engagement instead of punitive measures: Officers situated within the communities, and some having offices within the representative organizations’ buildings, is allowing for better understanding and collaboration on a variety of community safety issues.

Funding research projects has provided an outlet for engaged communities to learn about and connect with their own history: The original intention of funding research was to provide the federal government with the information necessary to make informed policy decisions. However, academics being funded by the FICP are striving to include community members in their research by also hosting community information sharing workshops and including community

members where possible in assisting in the data collection work. It was recommended by some of the funded academics interviewed that this should be a best practice that could be regular practice if the research timelines could be extended. A major challenge in conducting research for the FICP was the often unpredictable and late timelines of funding contracts as well as short turn-around times that were at inconvenient times of the school year. It was also noted that a lot more could be done by the FICP to amalgamate and disseminate the research conducted so that it could be more useful for communities, the federal and provincial governments and for the academic community at large.

One notable negative unintended outcome is the concern that some representative organizations are dependent on FICP funding for core operations. According to the case studies and interviews, organizations were thought to be vulnerable to closure given the pending federal funding cuts. One interviewee stated that “organizations were encouraged in the beginning to create a governing structure that may not be sustainable without permanent federal government [support].”

4.2 Program Design and Delivery

4.2.1 There is a need for improved coordination of efforts among various FICP-funded activities.

Interviewees noted areas in which research activities, commemorative events and the activities of the federal partner organizations could be better interconnected and collaborative to achieve additional program performance gains. It was suggested that an annual research findings symposium that includes Métis communities as well as a centralized online platform would be helpful as it could allow for the dissemination of research, court case updates, overviews of bilateral and tripartite work plans and their progress, discussion forums, and for stakeholders to connect.

A challenge noted by interviewees for the continuation of a coordinated approach was the dissolution of the Office of the Federal Interlocutor and the subsequent moving of FICP to the Policy and Strategic Direction directorate of AANDC. Federal partners, AANDC staff, provincial representatives and representative organizations felt that the role of the Federal Interlocutor is diminished as it has moved from a perceived prominent and politically-engaged position at the Privy Council Office to now a sub-program at AANDC. It was stated that when the branch was within the Privy Council Office, the office reported directly to the Minister with a minister’s liaison. This was useful to have the direct line of communication, especially when negotiating among several parties. The liaison remained intact when it became a part of AANDC, however, with the dissolution of Office of the Federal Interlocutor, interviewees found that the Federal Interlocutor’s role has been hindered by added levels of bureaucracy in that it

has been increasingly more challenging to work with the FICP and to get updates on how the federal partners should be moving forward on the horizontal mandate.

4.2.2 Difficulties in achieving current program objectives suggests the need to reflect on whether the current FICP design is the appropriate approach moving forward

Some interviewees believe that a centralized program allows for strategic policy making and the nurturing of fragile relationships, while on the other hand, it was felt that if more practical gains are to be made on the socio-economic well-being of individuals, the regions would be better placed to expand some of their current programs and services. The policy debate is as follows: The FICP is unique in comparison to how AANDC typically conducts its activities. The centralized program develops policy, engages in advocacy, conducts negotiations and delivers capacity building programs and services to representative organizations who theoretically may then deliver specialized programs and services to their membership. Normally, each of these program activities would be conducted in a different sector or branch. For the FICP, it was seen as a “one stop shop for Métis and non-status Indians”. This approach was believed by some to be necessary for maintaining a high-level and strategic relationship with representative organizations in order to build trust. However, others expressed that the Department should consider expanding targeted regional programs and services to Métis and non-status Indians instead of having a centralized program. This approach would focus less on maintaining higher level relationships with representative bodies and engaging in forums that are often extremely political and more on providing identified community members with some of the programs and services accessed by on reserve and Inuit communities.

Additionally, the priority of focus for Aboriginal organizations is somewhat unclear, as there are simultaneous pressures to advocate and litigate for rights recognition, while at the same time focusing on programming intended to improve socio-economic well-being. At the moment, the case studies revealed that not all organizations are able to be highly active in providing programs and services as they are mainly preoccupied with supporting litigation cases, being advocates at the provincial/territorial and national level, and providing feedback to various levels of government on existing or proposed governmental policies and programs.

4.2.3 Expectations in terms of program outcomes are unclear, particularly considering changes in the governance and focus of FICP activities.

AANDC along with Environment Canada, Parks Canada Agency and RCMP jointly established a mandate to carry out “a pro-active reconciliation and management approach for Métis Aboriginal rights that is in keeping with the Government’s intent to maintain calm and order by managing Aboriginal rights issues, avoid litigation and the court process.” However, the various articulations of objectives, activities and expected outcomes for all federal partners and

AANDC's FICP specifically, indicate that there is a need to review and consolidate the program's core performance measurement documentation.

With the FICP no longer within the purview of the Office of the Federal Interlocutor, there is no longer a political relationship specific to this program, and there is unlikely a strong link to Cabinet. There remains a focus on improving socio-economic conditions, increasing self-reliance and reducing dependency; however, according to interviewees, organizations are dependent on AANDC for funding core operations, and the availability of targeted socio-economic programs. Given the recent move of Office of the Federal Interlocutor under Social Programming, AANDC has not yet articulated how it may support MNSI organizations to improve socio-economic well-being. There remain tensions between the various activities of the program to avoid litigation, engage in litigation, build the capacity of Métis and non-Status Indian organizations (which also results in an improved ability of Métis and non-Status Indian organizations to litigate against AANDC), represent Métis and non-Status Indian organizations interests, conduct research to support litigation, build co-operative relationships, support a registry and to then ultimately see better socio-economic outcomes for these populations.

An Integrated Results-Based Management and Accountability Framework and Risk-Based Audit Framework was developed in 2008, however, the evaluation found little evidence that the program is tracking, monitoring and assessing its activities and performance in a routine and organized fashion. The various stated objectives and expected outcomes of the FICP and the Federal Interlocutor's Mandate are as follows:

Various Program Objectives:

- To help to build capacity, and to maintain a relationship based on trust and respect between Métis and non-status Indian people and the Government of Canada (2010 Originating Documents, RMAF)
- To be seen as proactive and working collaboratively with all interests involved and develop common understandings, where possible, of the implications and significance of the decision, and related issues (Program Documentation)
- To clarify issues, ascertain stakeholder views, and facilitate informed and sustainable policy development regarding an orderly process to deal with Métis Aboriginal rights issues (Program Documentation)
- To identify opportunities to enhance socio-economic conditions of Métis without creating the perception those programs are based on rights and entitlements (Program Documentation)

Various Expected Outcomes:

- Maintain calm and order by managing Aboriginal rights issues, avoid litigation and the court process, and to transfer the Métis and non-status Indian litigation portfolio

- from Justice to Indian Affairs and Northern Development (2010 Originating Documents)
- Relationships between parties based on trust, respect, understanding, shared responsibilities, accountability and dialogue (2014-15 PMF)
 - Working relationships with the national, provincial and regional off-reserve Aboriginal organizations (Program Documentation)
 - Good governance and co-operative relationships (2013-14 PAA)
 - Improve socio-economic well-being of Métis, non-status Indians and urban Aboriginal people (Terms and Conditions, 2008-2013 Program Alignment Architecture, RMAF)
 - Achieving practical ways of improving Métis and non-status Indians socio-economic conditions (Terms and Conditions)
 - Increased participation for Métis and non-status Indians in the Canadian economy (Program Documentation, RMAF)
 - The participation of Métis people in the Canadian economy is increased (Program Documentation)
 - Increasing self-reliance (Terms and Conditions)
 - Reducing dependency (Terms and Conditions)
 - Enhanced co-ordination of federal program delivery (RMAF)
 - Increase participation in public government – increase input and influence of Aboriginal people in key matters that are of importance to them (RMAF)
 - Legal and historical research to better determine scope of federal legal exposure (Program Documentation)
 - Enhanced federal understanding of Métis and non-Status Indian people and their needs. Identification of program overlaps. (RMAF)
 - The federal government's understanding of the needs and priorities of Métis, non-status Indians and off-reserve Aboriginal peoples is enhanced, and program duplications are identified. (Program Documentation)
 - Improved ability to advocate for Métis and non-Status Indian organizations (RMAF)
 - Improved ability to advocate for Métis, non-status Indians and off-reserve Aboriginal peoples, and the understanding of relevant issues is improved (Program Documentation)
 - Improved ability to represent and advocate on behalf of membership (RMAF)
 - Improved understanding of relevant issues (RMAF)
 - Enhanced understanding of Métis and non-Status Indian people, and their needs, by other levels of government (RMAF)
 - Policy changes based on facts – increased responsiveness to Aboriginal needs (RMAF)

- Improved federal/provincial relations and coordination on Métis and non-status Indian issues (Program Documentation)
- Enhanced understanding of Métis, non-status Indians and off-reserve Aboriginal peoples and their needs, by other levels of government. (Program Documentation)
- Improved ability to represent and advocate on behalf of membership (Program Documentation)
- Enhanced co-ordination of federal program delivery, and policy changes are based on facts (Program Documentation)
- Increased responsiveness to Aboriginal needs (Program Documentation)
- Increase participation in public government, and increased input and influence of Aboriginal people in key matters that are of importance to them (Program Documentation)
- The participation of Métis, non-status Indians and off-reserve Aboriginal peoples in the management of public affairs is increased (Program Documentation)
- Departments support the federal government's policy through appropriate policies and financial support (Program Documentation)
- Maintaining calm and order on the ground in response to harvesting claims – removed a driver for litigation through implementation of Interim Federal Harvesting Guidelines for all federal resource departments (Program Documentation)
- Working with provinces to harmonize harvesting systems – working to remove another driver for litigation (from inconsistent approaches – s.15). (Program Documentation)
- Working with Métis organizations to develop systems to identify Métis members (Program Documentation)
- The intervening period since *Powley* decision has been successfully managed for Canada (Program Documentation)
- The Communications Strategy is finalized (Program Documentation)
- The system for identifying Métis and Métis rights holders is implemented and the database is operational (Program Documentation)

Various Activities of FICP:

- Maintaining political relations with their representative organizations (Terms and Conditions)
- Acting as the point of contact within the federal government (Terms and Conditions)
- Acting as an advocate of their issues within Cabinet (Terms and Conditions)
- Building stronger linkages with provincial governments. (Terms and Conditions)
- Entering into contribution agreements to help to build organizational and institutional capacity (Terms and Conditions)

- Supporting organizational development within representative Métis and non-status Indian organizations, so that they will reach a level of self-sufficiency in order to better represent and advocate on behalf of their members (RMAF)
- Building mutual understandings with provincial governments and representative Métis and other off-reserve Aboriginal organizations with respect to the needs of their memberships, and the nature of federal and provincial programming in order to improve access to relevant programs and services (RMAF)
- Building healthy, productive working relationships with representative off-reserve Aboriginal organizations, so that they can take advantage of partnership opportunities. (RMAF)
- Building capacity in representative Métis organizations to identify Métis and Métis harvesters in keeping with the criteria set out by the Supreme Court of Canada in order to assist in the management of Métis Aboriginal rights and avoid conflict and civil unrest. (RMAF)
- Maintain calm-and-order on the ground with respect to the exercise of hunting and fishing activities, train and inform enforcement officers, maintain interdepartmental coordination (2010 Originating Documents)
- Work with provinces to harmonize harvesting systems, seek common messages and understandings, and develop working relationships to manage issues (2010 Originating Documents)
- Engage Métis organizations to develop systems to identify Métis members in keeping with the Supreme Court of Canada decision (2010 Originating Documents)
- Engage in historic and policy research as required to develop policy (2010 Originating Documents)
- Engage Métis organizations to strengthen representation and legitimacy through enhanced governance mechanisms that support the identification systems being developed, such as strengthened electoral, financial and management accountability (2010 Originating Documents)
- Maintain an Interdepartmental Response Group to ensure effective leadership and coordination in response to Métis rights, it includes (at a minimum); Office of the Federal Interlocutor, Department of Justice, RCMP, Environment Canada/Canadian Wildlife Service, and Parks Canada Agency (2010 Originating Documents)
- Engaging in historic and policy research to develop policy and inform AANDC and other federal departments on off-reserve (Métis and non-status Indian) issues (Program Documentation)
- Engaging Métis organizations to strengthen representation/legitimacy to improve socio-economic conditions of Métis and non-status Indians through capacity building funds (Program Documentation)
- Serving as a point of contact between the federal government and Métis and non-status Indians via bilateral discussions with the Métis National Council and the Congress of

Aboriginal Peoples to inform federal policy and identify common areas of mutual interest to address (Program Documentation)

- Undertaking exploratory discussions towards reconciliation involving provincial governments and Aboriginal organizations to mutually agree on paths towards reconciliation and where possible, tripartite negotiations (Program Documentation)
- Implementing The *Powley* Initiative by supporting Métis organizations in the development of systems to identify Métis members in keeping with the Supreme Court decision so as to provide members with harvesting rights (Program Documentation)
- Representing the interests of the Government of Canada in all discussions (Program Documentation)
- Liaising with other government departments as necessary (Program Documentation)
- Representing the interests of the Government of Canada in all discussions (Program Documentation)
- Liaising with other government departments as necessary (Program Documentation)

Given the relative lack of clarity in objectives, a comprehensive performance measurement strategy is needed. Additionally, interviews and case studies found that the program's objectives regarding reducing litigation and improving socio-economic well-being may be too lofty of expectations.

While conducting the case studies, the organizations interviewed were not aware of the FICP's expected outcomes. One organization said AANDC should make organizations aware of these objectives so they can work toward them and measure their own progress.

4.3 Internal and External Factors

4.3.1 The high volume of litigation and the extremely political environment around the Métis/Aboriginal rights and jurisdictional responsibility of non-status Indians question have resulted in conflict amongst stakeholders and has caused most of the attention to be focused on rights and litigation.

The subject matter surrounding the issue of Métis and non-Status Indians rights is often highly political and contentious. There is a lot of tension and mistrust between multiple stakeholders, and even between the representative organizations. The relationship between the federal government and representative organizations is extremely fragile. (Appendix C outlines notable national and regional court cases around questions of Métis rights.)

The case studies revealed that there is a lot of mistrust of government officials. The additional impact of funding cuts also fueled suspicions and feelings of the federal government conspiring to close down representative organizations. It was evident that the relationship between AANDC

and representative organizations deteriorated severely as a result of the cuts and how they were informed about the cuts. AANDC was also criticized by externals for poor communication.

The Métis National Council, the Congress of Aboriginal Peoples and their provincial affiliates have a highly coordinated litigation strategy where they are testing the following arguments in various court systems:

- federal responsibility for Métis under s.91(24) of *Constitution Act, 1867*
- constitutionality and management of scrip system
- potential Métis Aboriginal title
- portability and scope of Métis rights not related to title
- Land base/reserves or corresponding band support funding similar to First Nations³³

The reason for the high volume of litigation is that the Métis feel that they have been excluded in the past and now see litigation as the only available mechanism to pressure governments to take their issues seriously.³⁴

In the Federal Court Manitoba Métis Federation case, the Court provided a decision without specifically instructing the Crown on a recommended course of action. The Crown is only required to apply the decision in-general leaving the practicalities of developing policies and programming in the hands of politicians and bureaucrats. The FICP, thus, operates in an environment with many stakeholders that have divergent perspectives on who are the Métis, whether they have rights and what those rights may entail, resulting in several points of conflict:

- ***Métis and First Nation communities:*** There are First Nation communities that refuse to acknowledge that the Métis have rights similar to their own.
- ***Métis and hunters (local and international):*** When rights are granted to specific groups for hunting, it can be expected that other groups may not agree with the rationale. Anecdotal evidence suggests that Canadian and American hunters have expressed concern and have complained about the Métis rights to harvesting.
- ***Métis Nation member and non-status Indians:*** The Métis Nation tries to distinguish itself as the true Métis Rights holders having descended from the families and specific culture derived from the Red River region. The *Powley* decision, although recognizing the emergence of Métis people in the Red River region, did not limit the test of determining who is a Métis for the purpose of Section 35 to that region. However, this

³³ Effective Management of Métis Aboriginal Rights Strategy February 2011

³⁴ Effective Management of Métis Aboriginal Rights Strategy February 2011

strict identification of “who are the Métis” causes great stress for individuals who self-identify as Métis. Further, if the *Daniels* decision is upheld as-is, it moves the debate from identifying Métis as a historical community to identification as an individual because on genealogical connections. Since the FICP Grants and Contributions respond to both Métis and non-status Indians socio-economic causes, the need to identify a cohesive Métis group may have little bearing on program delivery per se; however, when it comes to the creation of Métis identification systems for harvesting rights, this potential change in definition could be problematic for those seeking harvesting rights that are outside of the *Powley* definition.

- ***Métis community members and representative organizations:*** The political and often volatile situation of many Métis and non-Status Indian organizations has led some vocal community members, to actively represent themselves nationally. For example, the North Slave Métis Alliance is now the first Aboriginal group to sign an Impact Benefit Agreement for the Gahcho Kue diamond mine in the Northwest Territories. The agreement sets out hiring and contracting targets, scholarship funding, and annual financial payments the Métis will receive. In June 2013, the Northwest Territories Supreme Court gave its decision on a case launched independently by the North Slave Métis. The court recognized the Métis' constitutional right to be consulted on matters affecting their traditional lands and hunting rights.³⁵

4.3.2 Jurisdictional debates continue to impede the provision of practical activities to improve socio-economic well-being of community members

When discussing the FICP with the provinces, overall, AANDC is seen as a good partner at the table but sometimes it just is not possible to overcome jurisdictional arguments, to agree on what are the “rights” of the Métis, and to come to consensus on the way forward. The following table illustrates the divergence in Métis recognition and collaboration in each region:³⁶

³⁵CBC news online. “North Slave Métis sign on to new NWT diamond mine”. Accessed July 11, 2013. <http://www.cbc.ca/news/canada/north/story/2013/07/11/north-metis-sign-iba-nwt-diamond-mine.html>

³⁶ Effective Management of Métis Aboriginal Rights Strategy February 2011

Region	Perspective
Alberta	The Alberta-Métis Settlements Accord (1989) was a political agreement between Alberta and the Federation of Métis Settlement Associations (now called the Métis Settlements General Council), which described both parties' intentions to develop a new land-based governance model for the Métis Settlements. Eight Settlements were established by the <i>Métis Settlements Act</i> . Outside of these settlements, the province does not acknowledge the existence of other Métis communities.
British Columbia	Several cases that have found insufficient evidence to establish a rights-bearing Métis community in the province (i.e., <i>Howse, Nunn, Willison cases</i>)
Atlantic Canada and Quebec	<p>There is no recognition by courts of Métis right-bearing communities; <i>Vautour</i> (NB) and <i>Babin</i> (NS) (both at appeal stage), <i>Corneau</i> (QC - early stage of trial)</p> <p>Quebec historically does not recognize the existence of Métis.</p> <p>Maritimes have declared the <i>Powley</i> decision has no application in their provinces.</p> <p>Pressure continues to build in Quebec (Parks), the Atlantic (Fisheries), and Labrador (Claims).</p>
Western Provinces	<p>There is a lot of litigation where provinces are waiting for court decisions before recognizing the existence of Métis Aboriginal rights. The lower courts are finding rights in Manitoba and Saskatchewan with an important case before the courts in Alberta.</p> <p>There is the willingness to discuss how to address assertions of Métis Aboriginal rights and there is a spirit of co-operation and willingness to involve the federal government.</p> <p>Tensions and harvesting pressures are low.</p>
Ontario	<p>Has addressed identification of Métis harvesters with Métis National Council affiliate.</p> <p>Is conducting joint research with federal government and Métis.</p>
Territories	North of 60 th parallel is under a different policy approach. Métis and non-status Indians are included in land claim processes.

As the above table illustrates, creating a common federal/provincial approach is sometimes challenging as provinces do not generally recognize Métis rights in the same way as the federal government. Federal and provincial partners also find it challenging to know with whom exactly the Crown has an obligation to consult and may disagree on who needs to be at the forums.

5. Evaluation Findings - Efficiency and Economy

5.1.1 The evaluation found no obvious evidence of overlap or duplication of efforts with other levels of government and within the federal government.

Office of the Federal Interlocutor was designed to be the first point of contact and to work with the Federal Interlocutor and as such the program has remained the single window of entry for the Métis and non-status Aboriginal communities. The Urban Aboriginal Strategy also delivered by AANDC and also once delivered through the Office of the Federal Interlocutor was found to be working with Métis and non-Status Indians in their targeted cities. Although interviewees thought that their activities do not overlap, it will be necessary to ensure that both programs' activities continue to be well coordinated, especially now that they are located in different areas of the Department.

5.1.2 Funding delays are making it difficult for academics and representative organizations to plan and carry out their intended activities.

The case studies revealed that some organizations regularly take a loan through lines of credit and that they will pay interest on when funding from AANDC is late. One organization also stated that it is spending money on Human Resources court cases as they hired someone based on expected funding levels from AANDC and were subsequently forced to let the new employee go once the funding cuts were announced. For organizations that have taken on debt in preparation for 2013-14, the funding cut announcement may make it difficult for them to pay off their current debt levels. The previous evaluation similarly stated that:

Almost all Aboriginal organizations interviewed stated that they had difficulty obtaining funds from the Office of the Federal Interlocutor on time. Throughout the country, Aboriginal organizations reported the same scenario: long delays in signing agreements and processing funds, which led in some cases to overdrafts and interest on overdrafts due to financing by banks. In cases where the organization had no bank to turn to, they simply did not achieve planned work. In some instances, the delays incurred threats to the organization's stability and credibility—such difficulties as missed payrolls and bad credit with banks.

Although the previous evaluation and this evaluation attribute some of the delays to challenges with recipients' reports, the fact that this remains a problem and that one of the key activities of FICP is to support the capacity development of these organizations points to major challenges to the effectiveness and efficiency of the program. Organizations found it challenging to complete all the required evaluation, auditing and financial reporting. FICP program staff often identified inconsistencies in the reporting. Additionally, the negotiations to establish a work plan were thought to be onerous. Although AANDC has supported organizations in developing their

financial management and auditing functions, organizations suggested that the support has not been enough to increase efficiencies and that AANDC should consider funding internal evaluation activities as most are able to report solely on their activities with their members (transactional) and not on their results (impacts).

5.1.3 While there are no official benchmarks or indicators for cost-effectiveness, the majority of funds for the pro-active reconciliation and management of Métis Aboriginal rights and the management of Métis and non-status Indian litigation are for contributions.

As shown in Table 1, the relative proportion of all funding for the Métis/non-status portfolio used for salary and operations and maintenance, relative to that used for contributions increased steadily from four percent to 13 percent from 2009 to 2012, but has since decreased in 2012-13 and 2013-14 to eight percent and six percent, respectively. While there have been no indicators for cost-effectiveness developed for these programs, it is clear that as the mandate of Métis and non-status Indian Relations Branch has evolved, a steadily increasing proportion of their total costs has shifted to contributions to the Métis and non-status Indian organizations. Additionally, the current proportion of funds for operations and maintenance relative to contributions is on par with other contributions-based programs in the Department.

Powley funds for Parks Canada, the RCMP and Environment Canada are largely used for operations and maintenance, which seems appropriate given their roles in the process.

6. Conclusions and Recommendations

The need for ongoing support of pro-active reconciliation and management of Métis rights and the management of Métis and non-status Indian litigation is amply demonstrated. Additionally, it is clear that achieving this depends on the ability to have open dialogue and practical work plans, which are theoretically facilitated in part by bilateral and tripartite discussions. In order for Métis and non-status Indians to be represented in such discussions, they need representation and thus, there is a need for organizational capacity for Métis and non-Status Indian organizations. While there has been evidence of capacity improvements, concerns persist that they are vulnerable due to a high degree of dependence on federal funding, and some face considerable challenges with respect to debt and financial management.

Based on the *Powley* decision and the need to maintain calm and order among affected peoples, there is also a need for a Métis registration system. While there has been some success in this regard, registration systems are not currently standardized and lack the capacity to accommodate the expected volumes and the ongoing and evolving issues of Métis status and rights recognition. This is particularly pertinent with respect to recent legal decisions, the position of Métis organizations, the positions of provincial governments, and the position of the Government of Canada.

As a program, which is part of the Government's broader reconciliation efforts and litigation, the purpose of FICP needs to be better articulated; particularly in light of the move from the Office of the Federal Interlocutor to AANDC's Policy and Strategic Direction, and the resultant change in its strategic outcome to governance. There is a plethora of purpose and outcome statements on FICP and the program generally lacks focus in terms of clearly identifying a specific set out objectives and outcomes. There is a need for AANDC, with the engagement of its federal and Aboriginal partners, to clearly articulate the purpose and objectives of FICP in its current form under Policy and Strategic Direction, and to develop a comprehensive Performance Measurement Strategy to reflect this.

It is therefore recommended that AANDC:

- 1) Work with Métis and non-Status Indian organizations and federal and provincial partners to establish a clear set of objectives for the FICP moving forward that clearly delineates roles and responsibilities and expectations of stakeholders; and
- 2) Develop a comprehensive Performance Measurement Strategy specific to the FICP and *Powley* Initiative.

Appendix A – Provincial Fora

Province	Organizations	Dates	Current amount of Tripartite	Key Areas of Focus	Key Accomplishments
<u>BC</u>	Métis Nation British Columbia	1996 to present	250k	Governance, Economic the Development, Financial Reform	<ul style="list-style-type: none"> -Developed a strong governance structure. -Key pieces of Métis Nation British Columbia legislation developed: <i>Citizenship Act, Senate Act, Governing Assembly Act, Electoral Act and Natural Resources Act.</i> -Long term strategic plan based on input from all their chartered communities. -Policy pieces on economic development, education (e.g. Métis curricula) and child welfare all for Métis people. - 2006 Métis Nation Relationship Accord signed by the Government of BC and the Métis Nation of British Columbia committing them to work on matters of importance to the Métis people in BC.
	United Native Nations (Tripartite Process Suspended in 2010)	1996-2010	0	Governance, Membership (prior to relationship being suspended).	<ul style="list-style-type: none"> -Economic strategy, including Aboriginal tourism. -Development of training materials for United Native Nations board. -Development of policy and procedure manuals. - Development of long-term strategic plan. -Development of a Youth and Women’s council.
<u>Alberta</u>	Métis Settlements General Council (Tripartite Process suspended in 2011)	1997-2011	0	Economic Development, Education, Child and Family, Long-Term Strategic Planning (Prior to process being suspended).	<ul style="list-style-type: none"> -Economic development strategy exploring opportunities for all eight settlements. -Feasibility studies and business plans for Economic development opportunities. -Created a policy forum to discuss issues of importance to Métis people such as: health, education, economic development and child welfare. - Bringing the Métis Settlements General Council into legislation in 1990 following the enactment of a series of 10 Acts and Regulations.

					<ul style="list-style-type: none"> - 2013 signing of a 10-year Long Term Arrangement to assist Métis Settlements with governance, accountability and long-term sustainability of the Métis Settlements. This is a continuation of a 17 year statutory funding commitment signed in 1990 and subsequent financial arrangements between Alberta and the Métis Settlements General Council since 2007 until this signing in 2013 (\$85M per year over 10 years).
	Métis Nation Alberta	1992 to present	300k	<p>Economic Development, Health, Governance, Child and Family Services</p>	<ul style="list-style-type: none"> -Supported the creation and the development of “Métis Crossing” a Métis cultural interpretive centre. -Provided policy support and coordination to the affiliates of the Métis Nation Alberta: Apeetogosan, Rupertsland Institute, Métis Urban Housing, and Métis Child and Family Services. -Policy paper on the development of an Aboriginal charter school in Edmonton. -Development of policy position papers on Métis health, education and membership and economic development. - The creation of the 2007 Government of Alberta and Métis Nation Alberta Association Framework Agreement to facilitate the advancement of Métis people by providing a framework for both parties to work collaboratively.
<u>Saskatchewan</u>	Métis Nation-Saskatchewan	1993 to present	285k	<p>Governance Reform (internal and external), Internal Capacity, Community Engagement</p>	<ul style="list-style-type: none"> -Provided policy support and coordination to the affiliates of the Métis Nation Saskatchewan: Saskatchewan Métis Development Organization, Gabriel Dumont Institute, Clarence Campeau Development Fund. - Revised and updated the Métis Nation Saskatchewan Constitution and Legislation. -Revised and updated Métis Nation Saskatchewan policy and procedures manual. -Developed a dispute resolution system for membership applications and other potential grievances. - Supported to the development of additional line departments within the Métis Nation Saskatchewan. - 2002 <i>Métis Act</i>

Manitob a	Manitoba Métis Federation	1987 to present	290k	Education, Housing, Economic Development, Consultation, MB Métis Policy	<ul style="list-style-type: none"> -Supported the pilot program of the education program “Standing Tall” addressing low levels of educational attainment among Aboriginal people. -Developed a feasibility study and business plan for a “Métis National Heritage Centre”. - Assisted in the creation of the Métis Justice Institute, Hydro Training Department, Métis Economic Development Organization and the Métis Economic Development Fund as entities with the Manitoba Métis Federation governance structure. -Supported the expansion of programming for the “Louis Riel Institute” the educational affiliate of the Manitoba Métis Federation. - Assisted in securing training funds, employment and business opportunities for Métis people and Métis Businesses on major Manitoba infrastructure projects. - 2010 Manitoba Métis Policy. - 2011 Métis Economic Development Fund for Métis business and entrepreneurs. - 2012 Métis Harvesting Agreement, which recognizes Métis rights to harvest natural resources for food and domestic resources in certain areas of Manitoba.
	Aboriginal Council of Winnipeg	1997 to present	100k	Women, Economic Development, Education, Training and Employment; Youth, Justice, Culture	<ul style="list-style-type: none"> -Supported the creation of Onashowein Restorative Justice program for Aboriginal people in the City of Winnipeg. -Developed a feasibility study and a business plan for the creation of a Social Enterprise for Aboriginal Economic Development. -Assisted in leveraging partnerships for employment with entities within the City of Winnipeg. -Created a framework for the Aboriginal Council of Winnipeg to engage more productively with Aboriginal Service providers in the City of Winnipeg to better meet the needs of Aboriginal people in Winnipeg using these services. -Produced several policy and position papers on Aboriginal Women’s issues, Issues facing Aboriginal Youth, Crime Prevention, Aboriginal Education, and others areas of importance for their

					membership.
<u>Ontario</u>	Métis Nation Ontario (Métis Nation of Ontario)	2004 to present	150k	Governance, Economic Development.	<ul style="list-style-type: none"> -Developed a long term, multi faceted Economic Development Strategy for the Métis Nation of Ontario. -Produced policy and position papers on Métis youth, Métis Child and family services, Métis Adoptions, Métis membership, and Métis education. -Created an “Economic Development” housing institution with several business lines. - Supported the creation of the Métis Studies Department at the University of Ottawa. -Supported the updating of financial policies, and internal policies and procedures. -Supported the establishment of a Lands and Resources Department and supported the expansion of the Intergovernmental Affairs unit. -2004 Harvesting Agreement. -2008 Government of Ontario-Métis Nation of Ontario Framework Agreement which commits both parties to work on areas of mutual importance. - 2011 Métis Voyageur Development Fund, which supports resource-based economic development opportunities for Métis-owned businesses.
<u>PEI</u>	Native Council Prince Edward Island	1987 to present	35K	Education, Economic Development, Housing, Health	<ul style="list-style-type: none"> -Feasibility studies and business plans for economic development projects. - Policy papers have been developed in the areas of off reserve Aboriginal education and Aboriginal specific economic development. -Cultural programming for the promotion of healthy lifestyles for Aboriginal people.

Appendix B – Commemorative Events

Date	Gesture	Department
Métis south of 60°		
September 5, 2008	Métis Nation Protocol was signed by the Federal Interlocutor for Métis and non-status Indians and Minister of Indian and Northern Affairs, and the Métis National Council and its governing members. In April 2013, a renewal of the Métis Nation Protocol was signed by the Federal Interlocutor for Métis and non-status Indians and Minister of Aboriginal Affairs and Northern Development, and the Métis National council and its governing members	AANDC
April 2009	Government of Canada partnered with the Métis National Council to launch a new Métis Veterans Portal website at: http://www.métisveterans.ca/	AANDC and Veterans Affairs Canada
November 11, 2009	The Honourable Chuck Strahl joined Métis Veterans at Juno Beach to unveil a traditional Red River Cart and exhibit, which will stand as a lasting tribute to Métis veterans.	AANDC
December 9, 2009	Parliamentarians unanimously declared 2010 “Year of the Métis.”	AANDC
December 16, 2009	Métis Economic Development Symposium (Calgary)	AANDC
November 14, 2010	The Government of Canada unveiled a commemorative medallion to mark 2010 as Year of the Métis, at a special cultural ceremony at the Aboriginal Historic site known as The Forks in downtown Winnipeg.	AANDC
July 18, 2010	The Honourable John Duncan, in his former role as Parliamentary Secretary to the Minister of Indian Affairs and Northern Development, participated in the unveiling of a Memorial Gate leading to the cemetery located at the Batoche National Historic Site, Saskatchewan, in honour of those who fought and died during the Battles of Batoche, Duck Lake and Fish Creek 125 years ago.	AANDC
January 20, 2011	Métis Economic Development Symposium II (Vancouver)	AANDC
July 22, 2011	AANDC joined in the “Back to Batoche” celebrations to pay tribute to Métis ancestors, culture and history.	AANDC
October 25, 2012	The Honourable John Duncan attended the National Recognition Ceremony for First Nations and Métis communities with a heritage linked to the War of 1812 held at Rideau Hall to commemorate the brave actions of Aboriginal warriors involved in these battles.	AANDC
2011-2012 fiscal year	Métis National Council canvassed the views and perceptions of its members on issues relating to registration, membership and citizenship under the Exploratory Process on Indian Registration, Band Membership and Citizenship.	AANDC

Date	Gesture	Department
June 21, 2013	Wembley, AB: President Chartier signed an agreement with the Philip J. Currie Dinosaur Museum on behalf of the Métis Local 1990, pledging its support in creating the Métis display that provides cultural content that recognizes the Métis Nation and its contributions to Canada. ³⁷	Métis National Council
Métis in the North (Yukon, NWT)		
June 26, 2011	In the Northwest Territories, Métis are part of regional claims (i.e. Gwich'in, Tlicho and Sahtu). The Northwest Territories Métis Nation is nearing completion of their land and resource Agreement-in-Principle of a Lands and Resources agreement and is beginning a Phase 2, self-government tripartite negotiation.	AANDC and Government of Northwest Territories
Since 2006-2007 fiscal year	The Northwest Territory Métis Nation has received negotiations and project funding, while its five community-based Métis Councils have received interim core organizational funding while involved in lands and resources negotiation processes.	AANDC
March 11, 2013	Prime Minister Harper announced the conclusion of Northwest Territories devolution negotiations and that a consensus agreement on devolution had been reached. There was a joint signing ceremony on agreement to conclude Devolution signed by the Government of Canada, Government of Northwest Territories, and participating Northwest Territories Aboriginal groups/government including the Northwest Territory Métis Nation, Sahtu Secretariat Incorporated, Inuvialuit Regional Corporation, Gwich'in Tribal Council and the Tlicho Government.	AANDC and Government of Northwest Territories
April 1, 2014 (Implementation Date)	The Northwest Territories Métis Nation is one of the 5 regional Aboriginal organizations/governments who are signatories to the Northwest Territories Lands and Resources Devolution Agreement-in-Principle with the Government of Northwest Territories and AANDC. Devolution will move administration and control of Crown (public) lands, resources and water in the Northwest Territories from the Government of Canada to Government of Northwest Territories. The territorial government will also receive a financial benefit from resource development after devolution. The Government of Northwest Territories has agreed to share up to 25 percent of its share of resource revenues to Northwest Territories Aboriginal governments.	AANDC and Government of Northwest Territories
Nationally: Advocacy and Public Information Program		
Since 2007-2008	Métis National Council received Advocacy and Public Information Program funding to conduct outreach and to inform Métis former students, their families and communities about the Indian Residential School Settlement Agreement.	AANDC
Since 2011	Métis National Council has been promoting reconciliation and raising awareness about the intergenerational impacts of residential schools through the Youth Leadership Workshops that have been held in	AANDC

³⁷ <http://www.metisnation.ca/wp-content/uploads/2013/06/draft-PDF2-Newsletter-July-2013.pdf>

Date	Gesture	Department
	Batoche, Saskatchewan. Publications from these workshops are available on the Manitoba National Council website through the Healing Portal.	
2011-2012 fiscal year	The Truth and Reconciliation Commission recommended Métis National Council's proposal for commemoration funding to hold a Métis Nation Survivors' Conference, providing a vehicle of expression for those individuals impacted by the legacy of residential schools. As well, Manitoba National Council will develop a documentary using video interviews with Métis former students about their unique experiences in residential/day/industrial schools for use as an educational tool and as a lasting commemorative piece to honour and pay tribute to Métis former students. Some of these interviews are currently available through The Manitoba National Council Healing Portal. The final documentary will be broadcast on television in Canada and available on the Healing Portal.	AANDC and the Truth and Reconciliation Commission
2012-2013 and 2013-2014 fiscal years	Commemoration funding will be provided to two additional Métis recipients: Fishing Lake Métis Settlement (Alberta) and the Norman Wells Métis Women's Society (Northwest Territories).	AANDC and the Truth and Reconciliation Commission
November 2012	Following the Prime Minister's 2008 Apology to survivors of Indian Residential Schools, their families and communities, a commemorative stained glass window was inaugurated in Centre Block. The window is a visible reminder of the legacy of Indian Residential Schools, a gesture of reconciliation and respect. It was designed by a Métis artist (Christi Belcourt).	AANDC and the Truth and Reconciliation Commission

Appendix C – Selected Relevant Court Cases to Métis Rights

Date	Name of Case	Outcome
December 1996	<i>R. v. Morin & Daigneault</i>	The Court recognized the constitutional right of Métis in northwest Saskatchewan to harvest for food. The Province appealed this decision in September 1997, however, the appeal was dismissed.
March 2003	<i>R. V. Blais</i>	Manitoba Métis man was charged for hunting in violation of provincial regulations. It was held that the Métis were not “Indians” under the NRT, and that the Métis had been historically treated differently than Indians in the region. The Court also held that Métis hunting rights are not dependent on the existence of title.
December 2004 – January 2007	<i>Kelley v. Alberta</i>	In 2004, Kelley (Métis) was teaching his children to hunt and was convicted of hunting without a license under the <i>Alberta Wildlife Act</i> , though he had relied on the Interim Métis Harvesting Agreement. However, in 2007, the Alberta Court of the Queen’s Bench reversed the lower court’s decision and over-turned the conviction stating that Métis harvesters could rely on the Interim Métis Harvesting Agreement as a defense against charges.
October 2004 – January, 2009	<i>Manitoba v. Goodon</i>	Goodon was charged with hunting without a license, even while holding a Manitoba Métis Federation harvester card. The judge ruled in Goodon’s favour after five years of litigation and determined the rights-bearing community is much larger within Manitoba than previously established. This has implications for the Crown’s duty to consult for future investments in the added region of hunting territory.
2004	<i>Canada v. Misquadis</i>	Federal Court ruled that Human Resources and Skills Development Canada has discriminated against the urban Aboriginal community. This decision was upheld on appeal. It was determined that Aboriginal political organizations can represent urban Aboriginal interests and that the Human Resources Skills Development Canada must provide funding for the infrastructure required to deliver services and establish representative governance.
2005-BC	<i>Blackwater v. Plint</i>	This case involved four actions by 27 former students of Alberni Indian Residential school who claimed damages based on sexual abuse and other harms. The Court ordered 75% of the damages from the Canadian government, and 25% from the Church.
July 2005	<i>R. v. Laviolette</i>	The courts confirmed that Saskatchewan’s use of the Northern Administration District was arbitrary and it could not be relied upon to define Métis harvesting rights. The Court also reconfirmed that Métis throughout northwest Saskatchewan have a right to harvest for food, and this includes areas south of the Northern Administration District.
2005	<i>Métis National</i>	The Métis National Council of Women challenged the decision of the federal government not to permit Métis National Council of Women to

	<i>Council of Women v. Canada</i>	become a party to the Human Resourced Development Canada program. The trial judge denied the claim. It was appealed to the Supreme Court where it was denied.
June 2007	<i>R. v. Laurin and Lemieux</i>	In fall 2004, Ontario began to breach the Four Point Agreement whereby Ontario agreed to recognize the Métis Nation of Ontario's Harvester's Certificates in all of the Métis Nation of Ontario's identified harvesting territories. The Court ruled against Ontario and upheld the Agreement. Ontario did not appeal the decision.
October, 2007	<i>R. v. Belhumeur</i>	The courts affirmed that Métis in southern Saskatchewan also have Métis harvesting rights. Specifically, the court found a rights-bearing Métis community spans the Qu'Appelle Valley and includes Regina.
2007	<i>Newfoundland and Labrador vs. Labrador Métis Nation</i>	The provincial Court of Appeal ruled that all 24 Labrador Métis Nation communities did not have to ethnically identify themselves as either Métis or Inuit before the Crown could be compelled to consult and accommodate them.
January 2009	<i>R. v. Goodon</i>	The courts affirmed that Métis in Manitoba have a Métis right to hunt for food.
2009-2011: QC	<i>Corneau v. Crown</i>	The Québec Superior Court to merge 17 cases of petitions for dispossession of lands occupied without rights in which the respondents were claiming Aboriginal rights. Fifteen of the defendants claimed Métis rights and two claimed rights as non-treaty Indians. The Court granted the petitioners an advanced costs order after assessing the claims against <i>Powley</i> and <i>Van de Peet</i> .
December 2010	<i>R. v. Hirsekorn</i>	This was a test case for all Métis in Alberta, with a particular focus on central and southern Alberta. The courts found that there was an historical Métis community in central Alberta, however, there was not a historical Métis community in southern Alberta. Due to the fact that there was no site-specific harvesting and hunting lands for Métis, the court ruled that the Alberta Métis claims did not satisfy the framework set by <i>Powley</i> . This decision was appealed in 2011. The appeal was dismissed, July 2013.
2012	<i>Bellrose v. Alberta</i>	This was an appeal by Bellrose from the dismissal of his income tax reassessment appeals. Bellrose served as an elected official of Métis Nation Alberta from 1996-2011, during which time he claimed an income tax exemption on the basis that his role was equivalent to that of an elected officer of a municipality. The Tax Court judge dismissed Bellrose's appeal
March 2013	<i>Manitoba Métis Federation. vs. Canada (Attorney General)</i>	The Supreme Court reversed the decision of the Manitoba Queen's Bench and Manitoba Court of Appeal to dismiss the claim of the Manitoba Métis Federation that Canada had breached its fiduciary duty to the Métis when land was misdistributed to Métis descendents. The Court ruled that the government of Canada had a duty of diligence in fulfilling its obligations under the <i>Manitoba Act</i> .

2013 (ongoing)	<i>Daniels v. Canada</i>	The Plaintiffs asked the Court to declare: 1) that Métis and non-status Indians are "Indians" as the term is used in s 91(24) of the <i>Constitution Act, 1867</i> ; 2) that the Queen owes a fiduciary duty to them as such; 3) and that they have the right to be consulted by the federal government on a collective basis, respecting their Aboriginal rights and interests. The Court agreed to the first declaration. The Government of Canada appealed the decision.
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Appendix D – Key-Informant Interview Guide

INDIVIDUAL INTERVIEW - QUESTIONS BY ISSUE

- ❶ Question asked to Federal government participants
- ❷ Question asked to Métis and other Aboriginal Organisations
- ❸ Question asked to Provincial governments and other partners

Relevance

On-going need

Q1 ❶❷❸ Is there a need that justifies the bilateral and tripartite processes and the Powley initiative? Can you elaborate?

- **PROMPT AS NECESSARY:** To what extent is it necessary to conduct research and disseminate it through the Federal government for the purposes of these processes? What kind of information is being provided within the department, to other areas of government and to Cabinet?
- What are the key objectives of the bilateral and tripartite forum discussions? Do you think that the bilateral and tripartite processes can reasonably achieve those objectives? Why or why not?
- Are they mainly working toward giving Aboriginal Organizations the mandate and capacity to deliver services in place of provincial governments? What kinds of services? Why is there a need for this?
- Is the funding via Federal Interlocutor Contribution Program (FICP) the best way to achieve the objectives of these processes?

Contribution to the government's priorities and the department's strategic outcomes

Q2 ❶ What government priorities and responsibilities do the BILATERAL AND TRIPARTITE processes and the Powley initiative help to achieve? Can you refer to official documents?

Q3 ❶ How do your activities of providing advice, raising awareness, building relationships, and building the capacity of Aboriginal organizations enable the government to achieve these priorities and responsibilities?

Q4 ① How does the funding via the FICP enable the government to achieve these priorities?

Harmonization with the government's responsibilities

Q5 ①②③ Are the Government of Canada's existing roles in these bilateral and tripartite processes appropriate? Why or why not?

Q6 ①②③ What impact, if any, will the recent Federal Court ruling (implicating the addition 200,000 Métis and 400,000 non-status Indians to jurisdiction under the Indian Act) have on this role and programming/services provided? What other changes do you anticipate?

Performance/Design (BILATERAL AND TRIPARTITE PROCESSES)

Q7 ①②③ Over the past five years, have the bilateral and tripartite processes contributed to a better understanding of the needs of the Métis, non-status Indians and off-reserve Aboriginal people by the federal government? The provincial governments? How so, or why not?

Q8 ①②③ According to Métis National Council, Tripartite Negotiations are intended to give Métis representative bodies greater capacity in the form of legal authorities to deliver programs and services with the goal of implementing the Métis Nation's right to self-government within the Canadian federation. To what extent are Tripartite negotiations facilitating this?

Q9 ①② Over the past five years, has Office of the Federal Interlocutor effectively represented the Métis, non-status Indians and off-reserve First Nations within the federal government? How so, or why not?

Q10 ①②③ Have the bilateral and tripartite processes helped Aboriginal organizations (1) increase their ability to set objectives and priorities; (2) perform financial functions; (3) strengthen organizational governance; (4) be accountable to their membership and to the federal government for any funding received? How so, or why not?? Is the federal government more responsive to the needs of the Métis and non-status Indians than they were five years ago? The provincial governments? How so, or why not? Can you give examples? How much of the change would you attribute to the BILATERAL AND TRIPARTITE PROCESSES?

Q11 ①②③ Have there been improvements in the coordination and delivery of services among the Métis, non-status Indians and off-reserve Aboriginal people resulting from bilateral and tripartite processes? How so, or why not? Can you give examples?

Q12 ①②③ Has the participation in elections by the Métis, non-status Indians and off-reserve First Nations increased over the past five years? How so, or why not? To what extent would you attribute that change to BILATERAL AND TRIPARTITE PROCESSES?

Q13 ①②③ Are there any internal or external factors that may have facilitated or hindered the achievement of these results? What are these factors, and what are their specific effects?

- Suggestions for improving the effectiveness of activities?

Performance/Design (POWLEY)

Q14 **1 2 3** Has the Powley initiative established an approach to the management of Métis rights that is applied consistently across the federal government? Please elaborate.

- How effective is this approach? Can you give specific examples?

Q15 **1 2 3** To what extent are the objectives of the Powley Initiative facilitated or hindered by policies and practices of other agencies/departments? Other levels of government?

Q16 **1 2 3** Is there an operational system for identifying Métis members and harvesters in each region? If not, why not? If so, who is responsible for it? How effective is it? Is there a data validation mechanism?

Q17 **1 2 3** Is there a database that is operational? Should there be? Please elaborate.

Q18 **1 2 3** Are there any internal or external factors that may have facilitated or hindered the achievement of these results? What are these factors, and what are their specific effects?

Q19 **1 2 3** Are the four key activities of the program ultimately supporting the federal government's commitment to improving the socio-economic conditions of Aboriginal peoples within Canada? How so or why not?

- Suggestions for improving the effectiveness of activities?

Q20 **1 2 3** Do you believe Métis contributions are well-recognised in Canada?

Performance (FICP funding)

Q21 **1 2 3** Has the funding provided through the FICP effectively supported:

- The bilateral and tripartite processes? (i.e., Does the funding adequately facilitate discussions, negotiations and meetings?)
- Meetings at the provincial and national level to facilitate discussions about Aboriginal priorities?
- Discussions of self-governance?
- Capacity building?

Performance (unintended impacts)

Q22 **1 2 3** To your knowledge, have the BILATERAL AND TRIPARTITE PROCESSES and the Powley initiative produced any unforeseen positive or negative results?

- What has been done in this regard?

Performance (Efficiency)

Q23 ①②③ Is there overlap or duplication in the Government of Canada's current roles and activities

- Are there areas for improved efficiency?

Performance (Economy/Alternatives)

Q24 ①②③ Are there opportunities to achieve the intended results more efficiently and/or economically? Have you seen any examples of this among Métis or other Aboriginal organizations?

Performance (Lessons learned)

Q25 ①②③ Are there any lessons learned or best practices observed over the past five years that you feel should be considered in future policy development?