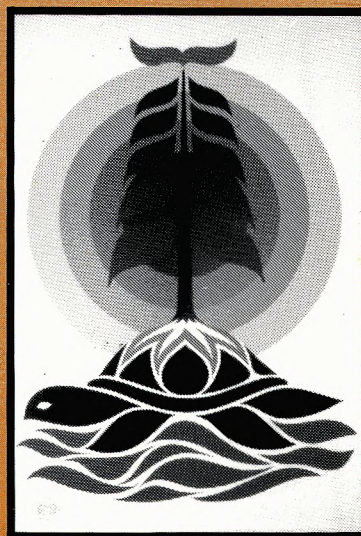
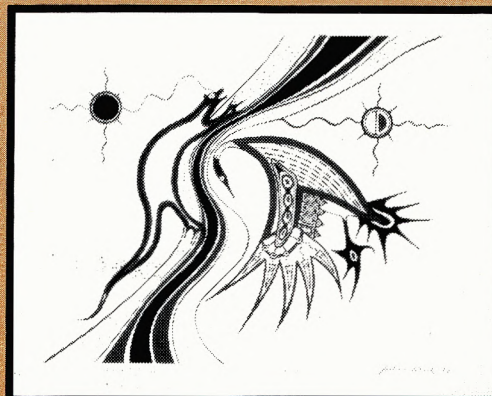




Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada



**EVALUATION REPORT FOR THE EVALUATION
OF THE LONG TERM IMPACTS OF
ALTERNATIVE FUNDING ARRANGEMENTS**

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About the Illustrations

The Westcoasters

(Bottom)

The Indians who now live along the west coast of Canada are direct descendants of skillful mariners who navigated the open ocean of the North Pacific in hand-hewn cedar canoes long before the arrival of the European. To attain their livelihood these people daily braved the perils of an area frequently referred to as the "Graveyard of the Pacific." The "Westcoasters" is a graphic visual tribute to the courageous and indomitable spirit of the west coast people.

Creation

(Middle)

To use the artist's words "... meaningful traditions are governed by the works of the Creator, and are believed to be sacred. It is from nature that the Native peoples adopt symbolism." Thus the "Creation" became the first of his Iroquois paintings. It is a work that portrays in physical symbols a vision of ancient Iroquoian spiritual concepts: the Turtle Island — the Earth, the Great Tree of Peace — Brotherhood and Unity, the Guardian Eagle — the Creator's watch-care, and the Sun — our Elder Brother.

The Goose and the Mink

(Top right)

The Northern Goose and Mink serve as a vivid portrayal symbolizing the unending and universal struggle between good and evil, the forces of life and death. In both the animate and the inanimate creation — in the prey and in its predator and in the variations between the lightened and the darkened suns — we see an emphasis on the continuing conflict between these forces and the pathway of division between them.

and the Artists ...

Roy Henry Vickers

Roy Vickers is a Coast Tsimshian who spent his early youth at Kitkatla, an ancient Indian village on an Island at the mouth of the Skeena River, British Columbia. Later his family settled in the Victoria area. While there, in art classes at school he was unable to relate to the European painters and the "great masters" and turned instead to the art of his Tsimshian heritage; it was here that he found himself.

It wasn't long before his artwork showed considerable promise and he was admitted to the Gitanmax School of Northwest Coast Indian Art at Ksan in Hazelton, B.C. In two years of intense study at Gitanmax, Roy matured into a highly skilled artist with a marked ability to sensitively blend traditionalist and contemporary forms. (Roy's other talents include University lecturing and television acting.) His carvings and paintings may be found in major public and private collections in Canada, the United States and Japan.

Arnold Jacobs

Arnold Jacobs is a Six Nations' Iroquois artist who is emerging as a visual interpreter and historian of the rich culture of his people. After studying in the Special Arts Program at Toronto's Central Technical School, Arnold went on to develop his distinctive techniques through thirteen years of experience in the commercial arts field. His works have brought him international recognition.

Central to Arnold's creative expression are symbols of the earth and sky — such as the waters, the four winds, thunder and the sun. For him these supporters of life are also spiritual forces that should inspire within us true thankfulness to the Creator.

Jackson Beardy

Jackson Beardy was born as the fifth son of a family of 13 in the isolated Indian community of Island Lake, about 600 kilometres north of Winnipeg, Manitoba. Deprived of his home and language at the age of 7, he spent 12 disorienting and traumatic years in residential school life. Thus Jackson's early manhood found him in the struggle to reconcile the two worlds of white and Indian society. It was at this time that he returned north in a quest to again learn the ways and teachings of his people.

Later, unrecognized and being unaware of any other Indian artists in Canada, he began to pioneer his own art form — one portraying traditional legends and nature in uniquely colourful, creative and symbolic images. In time his paintings have found their place in established collections throughout North America and Europe. His recent death in December of 1984 was lamented as a great loss to Canada.

PREPARED BY:

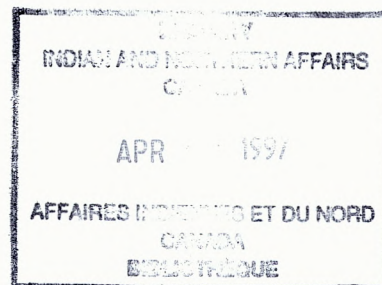
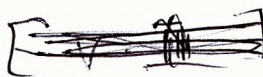
DANIEL J. CARON
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JUNE 1993

**EVALUATION DIRECTORATE
POLICY AND CONSULTATION
DEPARTMENT OF INDIAN AND NORTHERN AFFAIRS**



**EVALUATION REPORT FOR THE EVALUATION
OF THE LONG TERM IMPACTS OF
ALTERNATIVE FUNDING ARRANGEMENTS**



Your file Votre référence

Our file Notre référence

July 15, 1993

**CHAIRMAN AND MEMBERS OF THE DEPARTMENTAL
EVALUATION AND AUDIT COMMITTEE**

**Re : Evaluation of the Long Term Impacts of Alternative Funding
Arrangements**

Attached for your review and approval is the evaluation of the long term impacts of Alternative Funding Arrangements (AFAs).

As per the terms of reference approved by the Departmental Audit and Evaluation Committee the evaluation examined the following six issues :

- The extent to which AFA has enhanced recipients' management capacity and enabled them to design and deliver effective programs in accordance with their own needs and priorities?
- The extent to which AFA confirms and/or modifies the accountability of participating groups or bands to their local communities?
- The extent to which the Minister's requirements for accountability have been met?
- The extent to which AFA recipients have experienced a change in Departmental controls and/or a change in their relationship with DIAND?
- What, if any, have been the other impacts of AFA?
- What improvements can be made to AFA?

The evaluation found that where AFA is being implemented following its original objectives and intent, it is an effective financial and management tool for First Nations. It has had neutral or positive impacts upon First Nations' management systems, management capacity and program delivery. It has enabled First Nations to act upon their own priorities.


.../2

However, the evaluation found a number of impediments in order for First Nations to maximize the flexibility associated with AFAs. These include a lack of developmental activities, resource limitations, the need to utilize AFA to transfer program funds and the need to more fully utilize the 5 year funding ability of AFA as opposed to relying upon reimbursement of actuals as a funding approach. Also, the recent Departmental reorganization which transferred the development and implementation of AFA from a centralized to a decentralized approach has had an impact upon AFA. It has affected the ability of the Department to devote resources to developing AFAs and, in some instances, the Funding Services Officers now responsible for managing AFAs appear not to fully understand the principles and requirements behind AFA and they may not have all the proper skills to negotiate major AFA agreements.

The evaluation found that AFAs and other funding agreements have matured and been developed according to the political evolution of talks between First Nations and the federal government without consistently reflecting the onus of the Canadian public finance system. The evaluation found that there is legitimate apprehension about the fulfilment of Ministerial accountability. Current questioning on accountability can be attributed to the fact that there is no framework in place by which one can examine and judge if current accountability mechanisms built into agreements are accurate, sufficient and effective. This evaluation provides the basis for the development of such a framework.

The evaluation found that practices vary by First Nations and Tribal Councils and that there are many different accountability practices in place within individual First Nations. The evaluation also found that First Nations accountability has not been modified as a result of AFAs as many of those entering the arrangement already maintain sound regimes.

A series of suggestions are made to improve the Ministerial accountability framework, the First Nations accountability, as well as AFA implementation and process.


Marie-France D'Auray-Boult
Director
Evaluation Directorate
Room 1625

cc. Bill Clark

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ADDENDUM 1

Accountability Study: Development of Operating Models, Bhérer, Harold, Caron, J. Daniel, Evaluation Directorate, Department of Indian Affairs and Northern Development. April, 1993

EXECUTIVE SUMMARY

1. Introduction

In October 1983, the Special Committee on Indian Self-Government submitted its report (the Penner report), which contains recommendations on the establishment of Indian governments. To this end, the Penner report proposed that actions should be taken in three areas. One of these areas, of which Alternative Funding Arrangement (AFA) is part, is administrative or policy changes possible under existing legislation. AFA represents one method of giving Indian Councils expanded authority to manage the affairs of their own people. AFA was authorized by Cabinet in 1985 and was formally implemented during 1986. AFA is an optional arrangement, and is one of four methods First Nations can adopt to have funds transferred.

2. Purpose of the Evaluation

DIAND has undertaken to submit to Treasury Board an evaluation of the long-term impacts of AFA. Within this evaluation, special attention has been paid to the issues of Ministerial and First Nations' accountability. These are addressed both as a basis for this evaluation as well as to inform other Departmental initiatives such as current and future devolution activities.

3. Methodology

The evaluation was conducted using both in-house and contracted resources in consultation with an advisory committee and a sub-advisory committee. The multiple lines of evidence used to address the evaluation issues were undertaken between September, 1992 and January, 1993.

4. Evaluation Findings

The evaluation found that AFA has had direct and indirect impacts upon First Nations' management systems, and that the nature of these impacts were either neutral or positive. Through enhancing management capacity and enabling First Nations to act upon their own priorities, AFA has also had positive impacts upon program delivery.

The financial flexibility aspects of AFA are utilized by First Nations; however, respondents viewed the real strength of AFA to be its policy and program flexibility. While evidence was found that this flexibility is utilized by First Nations, the potential of AFA is not being fully capitalized upon. In other words, the potential to utilize the agreement to undertake creative

programming to affect areas such as social issues or economic development is not yet being fully realized.

The evaluation found a number of impediments in order for First Nations to maximize the financial and program flexibility of AFA. These include a lack of developmental activities, resource limitations, and the need to increase the utilization of AFA to transfer program funds. Further, the evaluation identified the need to more fully utilize the 5 year funding ability of AFA as opposed to relying upon 'reimbursement of actuals' as a funding methodology.

In terms of Ministerial accountability, AFA and other funding agreements have matured and been developed according to the political evolution of talks between First Nations and the federal government without consistently reflecting the onus of the Canadian public finance system. The evaluation found that there is legitimate apprehension about the fulfilment of Ministerial accountability. Current questioning on accountability can be attributed to the fact that there is no framework in place by which one can examine and judge if current accountability mechanisms built into agreements are accurate, sufficient and effective. This evaluation provides the basis for the development of such a framework.

In terms of local accountability, it was found that practices vary by First Nations and Tribal Councils and that there are many accountability practices in place within individual First Nations. The evaluation also found that First Nations accountability has not been modified as a result of AFA as many of those entering the arrangement already maintain sound regimes.

The evaluation found that the recent Departmental reorganization which transferred the development and implementation of AFA from a centralized to a decentralized approach has had an impact upon AFA. It has affected the ability of the Department to devote resources to developing AFAs and, in some instances, the FSOs now responsible for AFA appear not to fully understand the principles and requirements behind AFA and may not have all the proper skills to negotiate major AFA agreements.

The evaluation also found that where AFA is being implemented following its original objectives and intent, it is an effective fiscal and management tool for First Nations and related organizations. Of those First Nations and related organizations interviewed, 88% expressed views that were either positive or very positive towards the funding agreement. Strengths of the Agreement cited by First Nations include the arrangement's flexibility, that it enables secured funding with increased autonomy, and that it facilitates long-term planning.

5. Recommendations

The report contains improvements suggested by First Nations and Department officials, and puts forth conclusions and recommendations. The main recommendations of the report include the following:

Ministerial Accountability

- Any appraisal of the sufficiency and effectiveness of accountability mechanisms of funding arrangements and other devolution activities will have to be addressed once a framework acknowledging these features is in place. Utilizing the preliminary framework developed as part of this evaluation, and in consultation with First Nations, the Department should confirm such an accountability framework through pilot projects.
- The method of allocating resources under AFA should be reviewed to address issues regarding appropriations and associated requirements.

Local First Nations Accountability

- In combination with First Nations, related organizations, and other federal Departments, consideration should be given to initiating investigations into options for First Nations to confirm local accountability practices by a knowledgeable, independent third party such as a Bureau of the Native Auditor General within the Auditor General's Office.
- Consideration should be given to inserting additional measures which confirm local accountability within Departmental funding agreements.

AFA Implementation and Process

- The Department should devise an AFA National Development Strategy which focuses on enhancing the utilization of AFA authorities.
- In consultation with First Nations, the Department should develop comprehensive National Standard AFA Renewal Guidelines to ensure a clear and standardized application of Departmental policies and procedures.
- Consideration should be given to promoting a team approach to support Financial Services Officers during the initial budget development, implementation, and renewal stages.
- The original intent of AFA to be a comprehensive, five-year funding arrangement should be reinforced.

SOMMAIRE

1. Introduction

En octobre 1983, le Comité spécial sur l'autonomie politique des Indiens a présenté son rapport (le rapport Penner) et ses recommandations sur l'établissement des gouvernements indiens. À cette fin, le rapport Penner a proposé des mesures dans trois domaines, entre autres de changer les politiques et les structures administratives dans les limites permises par la législation actuelle. Les modes optionnels de financement s'inscrivent dans ces mesures. Les ententes sur les MOF sont une façon de donner plus de pouvoirs aux conseils indiens afin qu'ils puissent gérer eux-mêmes leurs affaires. Les MOF ont été autorisés par le Cabinet en 1985 et ont été officiellement mis en oeuvre au cours de 1986. Les MOF sont des ententes qui permettent au Ministère de transférer des fonds aux Premières nations qui désirent en assumer la responsabilité. C'est l'une des quatre méthodes utilisées pour transférer des fonds aux Premières nations.

2. But de l'évaluation

Le MAINC a décidé de présenter au Conseil du Trésor une évaluation des répercussions à long terme des MOF. Une attention spéciale a été accordée à l'obligation de rendre compte des Premières nations et du Ministère. Les questions liées à la reddition des comptes sont à la base de cette évaluation et servent à informer les autres programmes du Ministère tels que les programmes de transfert des responsabilités en place et futurs.

3. Méthode d'évaluation

L'évaluation a été effectuée par des ressources internes et des entrepreneurs, en consultation avec un comité consultatif et un sous-comité consultatif. Les diverses preuves rassemblées afin d'examiner les questions à évaluer couvrent la période s'étendant de septembre 1992 à janvier 1993.

4. Constatations de l'évaluation

D'après l'évaluation, les MOF ont eu des répercussions directes et indirectes sur les systèmes de gestion des Premières nations; toujours selon l'évaluation, il semble que ces répercussions aient été positives ou neutres. En améliorant la capacité de gestion des Premières nations et en leur permettant d'agir en fonction de leurs propres priorités, les MOF ont par conséquent eu des répercussions positives sur la prestation des programmes.

Les Premières nations tirent profit de la souplesse financière des MOF; cependant, selon les répondants, ce sont davantage la politique et la souplesse du programme qui sont les véritables forces des MOF. On a trouvé des preuves à l'appui démontrant que les Premières nations se servent de la souplesse qu'offrent les MOF. Il semble cependant que les MOF ne sont pas utilisés dans toute leur mesure. Autrement dit, les Premières nations adhérant aux MOF ont la latitude voulue pour mettre en oeuvre des programmes innovateurs dans des domaines tels que les conditions sociales ou le développement économique, mais elles ne profitent pas de toutes les possibilités qu'offre ce mode de financement.

L'évaluation a révélé un certain nombre d'obstacles empêchant les Premières nations de maximiser la souplesse financière des MOF et des programmes qui en découlent. Entre autres, il est ressorti que les activités de développement étaient insuffisantes, que les ressources étaient limitées et qu'il fallait davantage utiliser les MOF pour transférer les fonds des programmes. Par ailleurs, l'évaluation a reconnu la nécessité d'adopter davantage un financement quinquennal, ce qui est possible en vertu des MOF, plutôt que d'utiliser comme méthode de financement le remboursement des dépenses réelles.

Pour ce qui est des comptes que doit rendre le Ministère, les MOF et les autres ententes de financement ont mûri et ont suivi l'évolution politique des pourparlers entre les Premières nations et le gouvernement fédéral sans refléter constamment les responsabilités du système canadien des comptes publics. Selon l'évaluation, on a raison d'avoir des craintes à l'égard du respect de l'obligation ministérielle de rendre compte. Nos doutes actuels sur la reddition des comptes peuvent être attribués au fait qu'il n'existe pas de cadre de responsabilité nous permettant d'examiner et de juger si les mécanismes actuels de reddition prévus dans les ententes sont appropriés, suffisants et efficaces. L'évaluation qui a été faite fournit la base nécessaire pour l'élaboration d'un tel cadre.

Pour ce qui est de la reddition locale des comptes, on a constaté que les méthodes varient entre les Premières nations et entre les conseils tribaux et qu'il existe un grand nombre de méthodes de reddition au sein de chaque Première nation. L'évaluation a également révélé que les Premières nations n'avaient pas changé leurs méthodes de reddition des comptes en adoptant les MOF puisque beaucoup de Premières nations qui adhèrent aux MOF possèdent déjà des méthodes de gestion fiables.

L'évaluation a démontré que la récente restructuration du Ministère, qui a décentralisé la préparation et la mise en oeuvre des MOF, a eu des répercussions sur les MOF. Par conséquent, le Ministère peut moins consacrer de ressources au développement des MOF et, dans certains cas, les ASF qui sont maintenant responsables des MOF ne semblent pas comprendre tout à fait les principes et les exigences derrière les MOF et n'ont peut-être pas les compétences nécessaires pour négocier d'importantes ententes relatives aux MOF.

L'évaluation a également permis de constater que les MOF sont un outil de gestion et un outil financier efficace pour les Premières nations et les organismes connexes, lorsqu'ils sont mis en oeuvre suivant leurs objectifs originaux et dans le but visé. Parmi les Premières nations et les organismes connexes interrogés, 88 pour 100 ont dit être favorables ou très favorables à ce genre d'entente de financement. Les Premières nations ont cerné les avantages suivants : la souplesse de l'entente, l'entente permet de connaître à l'avance les fonds qui leur seront versés tout en leur donnant plus d'autonomie et elle facilite la planification à long terme.

5. Recommandations

Le rapport contient les améliorations proposées par les Premières nations et les représentants du Ministère et présente ses conclusions et recommandations. Voici les principales recommandations du rapport :

Responsabilité ministérielle

- Il faudra évaluer si les mécanismes de reddition des comptes des ententes de financement et des autres activités de transfert des responsabilités sont suffisants et efficaces quand on aura un cadre de responsabilité. En utilisant le cadre préliminaire élaboré dans la présente évaluation, et en consultation avec les Premières nations, le Ministère, par le biais de projets-pilotes, devrait mettre à l'essai le cadre de responsabilité proposé ici.
- Il faudrait réviser la méthode de répartition des ressources sous le régime des MOF afin de régler les questions concernant les crédits et les exigences connexes.

Responsabilité locale des Premières nations

- De concert avec les Premières nations, avec les organismes connexes et avec les autres ministères fédéraux, il faut examiner de quelles façons les Premières nations pourraient faire confirmer leurs méthodes locales de reddition des comptes par une tierce partie indépendante et compétente, telle qu'un bureau du vérificateur général autochtone au sein du Bureau du vérificateur général.
- Il faudrait envisager la possibilité d'introduire des mesures supplémentaires qui confirment la responsabilité locale dans les ententes de financement du Ministère.

Mise en oeuvre et processus des MOF

- Le Ministère doit élaborer une stratégie nationale de développement des MOF qui met l'accent sur une plus grande utilisation des pouvoirs des MOF.
- En consultation avec les Premières nations, le Ministère doit élaborer des lignes directrices nationales globales sur le renouvellement des MOF afin d'assurer une application claire et uniforme des politiques et des procédures du Ministère.
- Il faudrait favoriser le travail d'équipe afin d'appuyer les agents des Services financiers au moment de la préparation initiale du budget, de la mise en oeuvre et du renouvellement des MOF.
- À l'origine, les MOF étaient des ententes de financement global quinquennales et cette formule devrait être renforcée.

1. INTRODUCTION

1.1 Purpose of the Report

This report provides findings and recommendations of the Evaluation of the Long Term Impacts of Alternative Funding Arrangements (AFAs). The report includes a brief description of the AFA process, its objectives and intended impacts. It also presents the evaluation findings on the long-term impacts of AFA, as well as an in-depth review of First Nations and Ministerial accountability.

Supportive documentation is provided in three addenda which contain the findings of the Departmental regional reviews, case studies and interviews with First Nations representatives, and the review of Ministerial and First Nations' accountability.

1.2 Purpose of the Evaluation

DIAND has undertaken to submit to Treasury Board an evaluation of the long-term impacts of AFA.

Within this evaluation, special attention has been paid to the issues of Ministerial and First Nations accountability. These are addressed both as a basis for this evaluation as well as to inform other Departmental initiatives such as current and future devolution activities. It should also provide solid grounds for addressing concerns raised by the Office of the Auditor General regarding accountability issues within DIAND.

As per the terms of reference approved by the Departmental Audit and Evaluation Committee in June 1992, the issues addressed in this evaluation are:

- **The extent to which AFA has enhanced recipients' management capacity and enabled them to design and deliver effective programs in accordance with their own needs and priorities?**
- **The extent to which AFA confirms and/or modifies the accountability of participating groups or bands to their local communities?**
- **The extent to which the Minister's requirements for accountability have been met?**
- **The extent to which AFA recipients have experienced a change in Departmental controls and/or a change in their relationship with DIAND?**
- **What, if any, have been the other impacts of AFA?**
- **What improvements can be made to AFA?**

1.3 Background

In October 1983, the Special Committee on Indian Self-Government submitted its report (the Penner report), which contains recommendations on the establishment of Indian governments. To this end, the report proposed that action should be taken in three areas. One of these areas, of which AFA is part, is administrative or policy changes possible under existing legislation. AFA represents one method of giving Indian Councils expanded authority to manage the affairs of their own people.

On November 7, 1985 Cabinet authorized the implementation of new funding mechanisms designed to permit more local control to be exercised. On June 26, 1986 technical authorities were given to implement AFA with eligible First Nations, Tribal Councils and related organizations commencing in 1986-87.

During 1989, an evaluation of the AFA process and its short-term impacts was completed. The 1989 evaluation found that AFA has had a positive impact on the level and quality of services provided to Band members.

Based upon the results and recommendations of the last evaluation, several changes were made to the program. These consisted of items such as revisions to the Audit Guide to ensure that data is available on a systematic basis; a uniform standardized management assessment for consistency in determining the eligibility of Bands for entry into AFA; and a standardized presentation on AFA so that the differences between the various DIAND funding mechanisms are well explained.

1.3.1 Objectives

As stated in the MoU of May 28, 1986 the objective of AFA is to create a new relationship that will:

- enable Indian Bands/Tribal Councils to redesign/establish programs to meet their community priorities;
- enable Indian Bands/Tribal Councils to apply funds in accordance with community needs; and,
- foster accountability of Indian Bands/Tribal Councils to their local communities, without compromising Ministerial accountability to Parliament.

These intended objectives are accomplished through a set of activities leading to the implementation of AFA as well as follow-up audit and evaluation of the results.

1.3.2 Activities

There are two major groups of activities related to the implementation of an AFA agreement. The first group is related to the development and implementation of the agreement itself, while the second group consists of follow-up activities once the agreement is in place.

1.3.3 Intended Impacts

As stated in the MoU of June 1986, the intended impacts of AFA are as follows:

- Bands/Tribal Council's management skills highlighted;
- increased amount of activities administered and managed by Bands/Tribal Councils;
- increased flexibility for Bands/Tribal Councils to modify programs to suit their needs; and,
- enhancement of accountability of Bands/Tribal Councils to their constituents.

A detailed profile of Alternative Funding Arrangements can be found in Appendix 1, Chapter 1.

2. APPROACH AND METHODOLOGY¹

The evaluation was conducted using both in-house and contracted resources in consultation with an advisory committee and a sub-advisory committee. The role of the advisory committee was to oversee the entire evaluation while the sub-committee was in place to oversee the First Nations accountability case studies.

The approach used in this evaluation reflects the new Departmental evaluation policy which emphasizes the transfer of evaluation knowledge to First Nations. Three case studies were conducted by First Nations on

¹ The detailed aspects of the approach and methodologies used in this evaluation can be found in the document entitled: Planning Report for the Evaluation of Alternative Funding Arrangements, Evaluation Directorate, DIAND, July 1992.

accountability issues: the Saskatoon District Tribal Council, Muskoday Band and the Muskeg Lake Band.

The evaluation employed a two-phased approach. The first phase consisted of three main data collection activities:

- (1) Telephone interviews with First Nations and Tribal Councils were conducted. A total of 108 First Nations and Tribal Councils were selected at random and were stratified into the three categories: (1) those that have requested entry into AFA; (2) those that have an AFA agreement; and, (3) those which have not requested entry into AFA. A total of 73 First Nations and Tribal Councils participated, with an overall response rate of 68%. The responses of each category are as follows: 34 with an AFA (81% response rate), 7 in the process of getting an AFA (54% response rate), and 32 without an AFA (62% response rate).
- (2) The second activity was a review at headquarters and seven regional offices: B.C., Alberta, Saskatchewan, Manitoba, Ontario, Québec and Atlantic. Each review included file reviews of AFA and selected programs, and interviews with Regional Directors General (RDGs), Associate RDGs, selected Directors and Managers, and Financial Management (Services) Officers.
- (3) The third activity involved three in-depth case studies with First Nations that have an AFA: Ochapowace, River Desert, and Norway House First Nations. The former two participated in the previous evaluation and were chosen to assess the impacts of AFA over time. The latter First Nation was chosen due to its involvement with the program and location. Each case study employed a combination of file reviews and interviews with Department and Band/Tribal Council personnel. A fourth case study with the Nuw Chah Nulth Tribal Council was planned, however the Tribal Council declined our invitation to participate in the evaluation.

The second phase of the data collection activities consisted of a review of the issues of Ministerial and First Nations' accountability. The study was conducted in two parts: Part I consisted of an academic review aimed at suggesting potential models of accountability, and; Part II involved an in-depth analysis of the existing accountability regime of the Saskatoon District Tribal Council (SDTC). Two member bands, Muskeg and Muskoday First Nations, were also a primary focus of this study.

3. FINDINGS

3.1 FIRST NATIONS MANAGEMENT IMPACTS

3.1.1 MANAGEMENT CAPACITY

IT WAS FOUND THAT

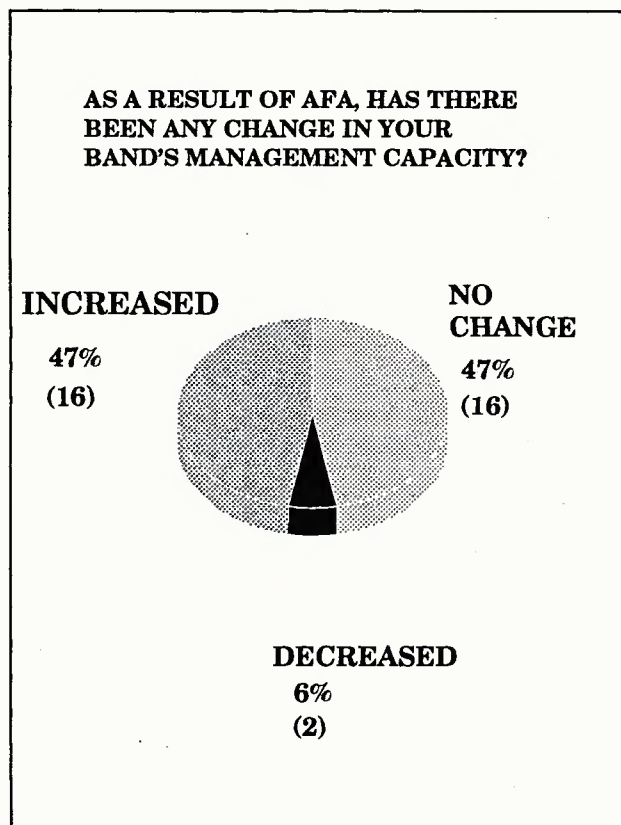
AFA HAS HAD NEUTRAL OR POSITIVE IMPACTS ON FIRST NATIONS MANAGEMENT CAPACITY;

The evaluation found that AFA has had direct and indirect impacts upon First Nations' management systems, and that the nature of these impacts were either neutral or positive. The increased financial and program flexibility of AFA fosters local decision-making and promotes the creation of better defined policies, specifically in the areas of finance and personnel management. The evaluation also found indirect effects upon management capacity in areas such as administrative structures, largely as a result of going through the initial AFA management assessment.

Chart 1

The overall neutral to positive impacts of AFA is shown in Chart 1 which presents the responses of telephone interviews with AFA First Nations and Tribal Councils with signed agreements. Of those who responded, 47% stated that AFA has increased their management capacity, while 47% stated that the arrangement has had no impact upon them.

The experiences of the First Nations participating in the case studies conducted as part of this evaluation are consistent with these findings. Respondents viewed the flexibility aspects of AFA as requiring structured, sound management to ensure service delivery.



The case studies reveal that AFA assists in the overall management of the Bands studied and is viewed by respondents as consistent with their efforts to take a more global approach to running their operations.

The extent to which AFA impacts the various components of management capacity are examined below. These areas include: financial management, human resources, administrative\organizational structures, and decision-making and planning.

Financial Management

Interviews with Department officials reveal that AFA makes First Nations more aware of resource considerations and compels them to look more critically at their policies. Further, largely as a result of undertaking the management assessment, AFA First Nations tend to have more formal financial control mechanisms and financial policies in place as compared to non-AFA First Nations. The percentage of First Nations with an AFA under a Financial Management Plan (FMP) is 6.6%, compared to 9.4% of First Nations with a CFA during 1992/93.

Through the case studies with AFA First Nations, it was found that the multi-year aspect of AFA provides the ability to control expenditures over the long term and hence assists in developing more efficient operations. Respondents also stated that the flexible cash flow requirements of AFA assists in planning and budgeting.

Human Resources

With respect to human resources, AFA has either had no change or has led to marginal increases in the number of human resources employed by First Nations and Tribal Councils. Based upon telephone interviews, 56% (19) of First Nations\Tribal Councils stated that there has been no change in their human resources due to AFA, while 38% (13) stated that it has resulted in an increase. The findings of the case studies reveal that AFA has led to an increase in the number of staff positions through the financial flexibility as it provides stability to staff additional positions on an ongoing basis. In addition, the evaluation found that the introduction of AFA increases staff responsibilities, particularly in the area of program development.

Administrative/Organizational Structure

The majority of First Nations 53% (18) have not experienced any change in their organizational structure, while 38% (13) experienced change in this area as a result of AFA. The case studies also reveal that AFA has little

direct change in this area. It was found that AFA had the indirect impact of facilitating the separation of political and administrative structures through the management assessment.

Decision-making and Planning

Departmental respondents argued that the greatest impact of AFA on recipients has been the fostering of decision-making ability at the local level. Given the greater autonomy provided by AFA, First Nations/Tribal Councils have had to rapidly learn that the decisions they make must be defended before their own communities. Through the flexibility afforded through AFA, the ability of First Nations to undertake long-term planning is facilitated, especially in the area of capital. AFA promotes recipients to find local solutions as opposed to referring to the Department for decisions. For example, in the case of the Ochapowace Band, housing and capital maintenance programs are scheduled over the course of their agreement so as to benefit from economies of scale. However, the extent to which the decision-making authority is being utilized differs between First Nations. It was explained that some AFA communities are still in the process of assuming this authority.

3.1.2 MANAGEMENT FLEXIBILITY

IT WAS FOUND THAT:

FIRST NATIONS UTILISE FINANCIAL AND PROGRAM
MANAGEMENT FLEXIBILITY PROVIDED BY AFA;

HOWEVER, FIRST NATIONS DO NOT FULLY CAPITALIZE ON
THE POTENTIAL CONTAINED IN AFA;

ALTHOUGH AFA PROVIDES A GREAT DEAL OF FLEXIBILITY,
THERE ARE IMPEDIMENTS TO ITS FULL USE. FOR INSTANCE,
THE USE OF FUNDING FORMULAS BASED UPON
REIMBURSEMENT OF ACTUALS, AS OPPOSED TO FIXED
FUNDING FOR THE TERM OF THE AGREEMENT, LIMITS THE
UTILIZATION OF AFA FLEXIBILITY AND CREATES A PROGRAM
REPORTING RELATIONSHIP BETWEEN FIRST NATIONS AND
THE DEPARTMENT SIMILAR TO THAT UNDER CONTRIBUTION
AGREEMENTS.

Numerous examples of how First Nations and Tribal Councils utilize the flexibility of AFA were obtained through interviews with First Nations and Department officials. Chart 2 outlines the types of flexibility afforded by

AFA which falls into two general categories: financial and program management flexibility.

Chart 2

Types of Flexibility Afforded by AFA	
Financial Management Flexibility	Program Management Flexibility
<ul style="list-style-type: none"> ✓ Transfer funds between eligible programs ✓ Retain surpluses ✓ Increased flexibility in cash management ✓ Increased ability to leverage loans/secure third party financing ✓ Ability to adopt an integrated, globalized approach to community resources 	<ul style="list-style-type: none"> ✓ Planning beyond one fiscal year ✓ Undertake creative programming ✓ Re-design existing programs ✓ Increased flexibility as to the timing of projects, particularly in areas such as capital and maintenance programs

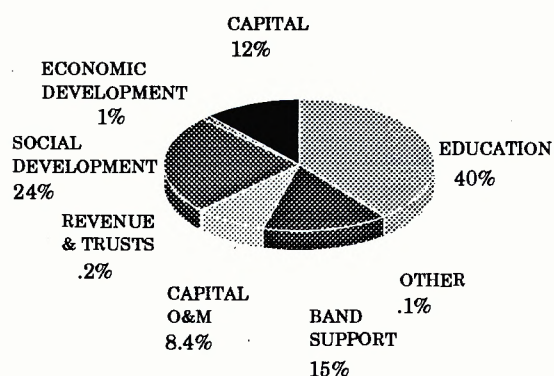
Financial Management Flexibility

With respect to financial management flexibility, the evaluation found that AFA provides Bands with increased flexibility primarily through enabling them to transfer monies and retain surpluses. According to telephone interviews, 85% (29) of AFA First Nations and Tribal Councils utilize the flexibility of AFA in financial management. On the basis of the case studies participating in the evaluation, it was found that in terms of financial flexibility, AFA legitimized past practices such as keeping surpluses which in itself was viewed as a strength.

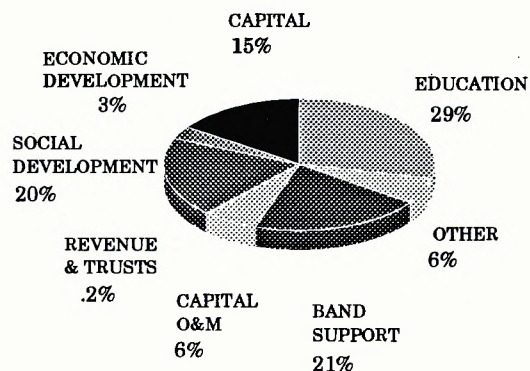
Chart 3 presents the findings of an analysis of a sample of First Nation AFA Agreements to assess the extent to which First Nations utilize AFA's financial flexibility. As this chart reveals, the initial distribution of dollars among programs as established in the AFA Agreements (including amendments and adjustments) is different than the final distribution of program expenditures. For example, 40% of the initial AFA funds were targeted for education, while 29% of the funds were reported to have been used for this purpose; while 12% of the funds were identified for capital but the First Nations chose to allocate 15% of the funds for this purpose. On the basis of the data examined, the Bands that relied on AFA the most were the ones with fewer other sources of revenue.

Chart 3
AFA Financial Flexibility Utilization²:
Budgeted versus Actual Distribution of Program Funds

**INITIAL DISTRIBUTION OF FUNDING
IN AFA AGREEMENTS**



ACTUAL DISTRIBUTION OF EXPENDITURES



Program Management Flexibility

The second main category of flexibility afforded by AFA is program management flexibility which involves program creation and policy design. The evaluation found that this type of flexibility is utilized by First Nations, but not to the extent as originally anticipated as First Nations remain cautious about its use.

Nevertheless, while the use of AFA program management flexibility is not complete, there is evidence that it is underway. Based upon interviews with

² The sample consists of 17 First Nations from across the country. Information sources consist of AFA agreements, amendments and adjustments, audit reports and the Department's Transfer Payment Management System (TPMS). This analysis compares percentage of AFA funds budgeted versus total expended. As such, the total expended in absolute dollars is considerably more since the initial budget distribution does not include funding delivered through FTP, contributions, Band revenues, or funding from other Departments.

AFA First Nations and Tribal Councils, 85% (29) stated that they utilize the program flexibility afforded by AFA. Similar findings were observed in the case studies where the program management flexibility of AFA was viewed as a major strength. Chart 4 outlines examples provided by First Nations\Tribal Councils on the use of the financial and program management flexibility of AFA.

Chart 4
Examples of the Use of AFA Flexibility

- | | |
|---|---|
| <ul style="list-style-type: none"> • START UP NEW ECONOMIC DEVELOPMENT PROJECTS | <ul style="list-style-type: none"> • USE SURPLUSES FROM EDUCATION TO IMPROVE HEALTH PROGRAMS |
| <ul style="list-style-type: none"> • DEVELOP CULTURAL PROGRAMS SUCH AS RE-UNIONS, ELDERS CONFERENCES AND TRADITIONAL SCHOOLING | <ul style="list-style-type: none"> • COVER SHORT-TERM DEFICIT IN EDUCATION |
| <ul style="list-style-type: none"> • IMPROVE AND INCREASE HOUSING | <ul style="list-style-type: none"> • INCREASE POST-SECONDARY FUNDING |

Impediments to use of AFA Flexibility

According to DIAND respondents, the utilization of AFA's flexibility is dependent upon the extent to which Bands are able to reduce their costs and utilize the multi-year aspect of AFA to achieve savings so that creative programming can be undertaken. The evaluation found that various impediments serve to limit the extent of flexibility afforded by AFA. More than half of the AFA First Nations and Tribal Councils (59%) interviewed stated that impediments to the use of AFA flexibility exist.

The first limitation is how resources are allocated under AFA. Currently, budgeting is done program by program and in some cases line item by line item. First Nations often see this as their budgets. In addition, there is a propensity for Bands to return to the Department if the program or line-item budget forecast is not accurate.

A second limitation is that there is an under utilization of AFA to transfer funds, as not all potentially available programs are chosen by AFA First Nations to be delivered through their AFAs.

Table 1 presents the percentage of services included in a sample of 48 agreements from three regions. As this table shows, the extent to which services are included under AFA differs by region. Overall, there is an under-utilization of AFA to transfer funding for available services. Of the Agreements reviewed, 96% include Band Management; whereas, only 54% included Social Assistance and 60% include post-secondary education and LRT programs.

Table 1

Performance Indicators on AFA Utilization: Percentage of Service Inclusion in AFA Agreements					
Service Area	Percent of AFA Agreements Which Include Program Area				
	Alberta	Ontario	Quebec	Atlantic	Total
Education:					
- Elementary	44%	70%	100%	85%	73%
- Post Secondary	44%	60%	100%	54%	60%
Economic					
Development	67%	80%	100%	62%	69%
Social Assistance	56%	40%	100%	77%	54%
Welfare	56%	40%	67%	62%	52%
Band Management	100%	95%	100%	92%	96%
Pension	0%	30%	17%	0%	13%
Capital	100%	85%	83%	85%	88%
LRT	44%	50%	100%	85%	60%
Percentage of AFAs included in sample	100%	42%	100%	100%	42% (N=48)

A third limitation to capitalizing on AFA flexibility is the use of funding formulas based upon reimbursement of actuals, as opposed to fixed funding for the term of the agreement. This limits the utilization of AFA flexibility and creates a program reporting relationship between First Nations and the Department similar to that under contribution arrangements. Table 2 shows the three different methods of funding programs under AFA: reimbursement of actuals, fixed for the term of the agreement, and fixed each year. As this table shows, there is a reliance upon transferring funds

by establishing yearly program budgets and reimbursement of actuals or not including the program in the AFA.

Table 2

Method of Transferring Funds Through AFA				
Service Areas	Percent of AFA Agreements Which Include Department Services By Funding Method ³			
	(5 years) Fixed Term	Fixed Each Year	Reimbursement Based on Actuals	Not in AFA
Education:				
- Elementary	3%	* 57%	*	38%
- Post Secondary	* 52%	3%		45%
Economic Dev'l	* 52%	24%		24%
Social Assistance	*	* 10%	* 35%	55%
Welfare		* 10%	* 35%	55%
Band Management		* 97%		3%
Pension			* 21%	79%
Capital	* 55%	28%		10%
LRT	7%	* 41%		52%

- * **National Adjustment Factor: The method of transferring funds for services as determined by National guidelines.**

Other Impediments to Utilization of AFA Flexibility

According to Departmental and First Nation respondents, a primary impediment to the use of AFA flexibility is the level of available resources. Other impediments include limits to forecasting program budgets, and not all Department programs are eligible to be funded through AFA.

The need for more communication and development activities on utilizing AFA authorities was also cited. It was also found that some First Nations and Tribal Councils are hesitant in utilizing the program development authorities of AFA due to the uncertainty as to whether the Department will approve future base-budgets based upon historical patterns.

³ Based upon a sample of 29 AFAs.

3.1.3 PROGRAM DELIVERY

IT WAS FOUND THAT:

AFA HAS HAD POSITIVE IMPACTS ON PROGRAM DELIVERY;

Through enhancing management capacity and enabling First Nations to act upon their own priorities, AFA has had positive impacts upon program delivery; however, the nature and extent to which this occurs varies by First Nation.

Table 3

These findings are illustrated in Table 3 which presents the results of telephone interviews with First Nations and Tribal Councils with AFA, in the process of obtaining an AFA, and without an AFA. Of those with an AFA, 74% stated that the arrangement has improved their program delivery, while 57% of those in the process of obtaining an AFA and 53% without an AFA anticipate that the arrangement would

improve their program delivery. As this data reveals, First Nations not in AFA often do not recognize the potential impacts that AFA has on improving program delivery. These impacts were recorded through a large percentage of AFA First Nations interviewed. While, 53% of First Nations without an AFA thought that it would impact this area.

Within the case studies, areas cited as examples of where the quantity and/or quality of services have been enhanced include: employment programs, recreation, housing, and social programs such as home care.

AFA Impacts On Program Delivery			
First Nations & Tribal Councils	Perceived (or Anticipated) Impact On Program Delivery:		
	Would Improve	Would Worsen	No Change
With AFA	74%	3%	23%
In the process of getting AFA	57%	0%	43%
Do not have AFA	53%	0%	47%

3.2 MINISTERIAL ACCOUNTABILITY AND GENERAL ASSESSMENT OF ACCOUNTABILITY

IT WAS FOUND THAT:

AFA AND OTHER FUNDING AGREEMENTS HAVE MATURED AND BEEN DEVELOPED ACCORDING TO THE POLITICAL EVOLUTION OF TALKS BETWEEN FIRST NATIONS AND THE FEDERAL GOVERNMENT WITHOUT CONSISTENTLY REFLECTING THE ONUS OF THE CANADIAN PUBLIC FINANCE SYSTEM;

THERE IS LEGITIMATE APPREHENSION ABOUT THE FULFILMENT OF MINISTERIAL ACCOUNTABILITY;

CURRENT QUESTIONING ON ACCOUNTABILITY CAN BE ATTRIBUTED TO THE FACT THAT THERE IS NO FRAMEWORK IN PLACE BY WHICH ONE CAN EXAMINE AND JUDGE IF ACCOUNTABILITY MEASURES BUILT INTO FINANCIAL ARRANGEMENTS ARE ACCURATE, SUFFICIENT AND EFFECTIVE. THIS EVALUATION PROVIDES THE BASIS FOR THE DEVELOPMENT OF SUCH AN ACCOUNTABILITY FRAMEWORK.

The last decade is seen by DIAND representatives as a period of experimentation and innovation in funding arrangements as well as devolution; a period of testing and stretching the bounds of the Indian Act in expanding the scope of First Nations decision-making authority. They do not, however, take these recent achievements and the existing system of accountability for granted. They view accountability as problematic — with many dimensions, ambiguities and complexities, dilemmas and risks. Recent developments show that funding arrangements are not simply administrative means for transferring federal moneys to First Nations and related organizations; they are a centrally important forum through which the policy, administrative and financial roles and relationships of the Canadian parliamentary government, DIAND and First Nations are being worked out. DIAND representatives feel that DIAND's funding arrangements are still some distance from the Penner Report's vision of global block funding to First Nation governments, and they would like to move further toward the principals expressed by the Penner Report. There is still too much complexity and detailed control in the agreements. For example, in a given year, the Department approves about a dozen amendments to any given AFA, and a Region can have up to 30 different funding allocation formulas in operation. As our review of accountability requirements in AFAs shows, and the FTP evaluation also found, DIAND in

many respects is still very much engaged in line item budgeting and reporting with First Nations.

With respect to Ministerial accountability, DIAND representatives' major concern is the extent to which terms and conditions are not enforced. Although agreements contain mechanisms for reporting, it was suggested that DIAND is shy about enforcing accountability for the use of federal monies. Problems of non-compliance in the funding arrangements still exist and are substantial. For instance, approximately 30 to 40 per cent of the annual audited financial statement of Councils for the 1991-92 fiscal year were late in being submitted to the Department.

It is felt that Ministerial accountability needs to be clarified. Departmental officials would also like to have performance measurement information on the programs and services managed and delivered by First Nations. As an annual operational statement, this information would be an important complement to the financial statement and would reinforce the infrastructure of First Nations accountability both to their members and to DIAND. With this kind of performance information, the Department would be in a better position of knowing what is happening with monies appropriated by Parliament, and in sharing "best practices" in the delivery of programs and services across First Nations communities. DIAND respondents felt that Ministerial accountability is being maintained on the basis that there are enough terms and conditions in place, but there is no guarantee that these terms and conditions will be satisfied.

The Auditor General's statements on accountability sustain that funds administered by Indian Bands and Tribal Councils lack a proper accountability framework. According to the Auditor, DIAND still retains ultimate accountability for the way in which these funds are spent and the results they produce. To this end, the Auditor judges that DIAND is not collecting the information that would allow the Department to be accountable. He says that there is a misfit between the manner funds are obtained from Parliament, ie. by program line, and the way the Department reports on the use of these funds, ie. in a more global way. Towards this end, the Department has introduced a new operational planning framework which reports on the basis of funding arrangements.

In constitutional theory, the doctrine of ministerial accountability refers to the Executive's responsibility to Parliament. Traditionally it has meant that ministers are accountable to Parliament for explaining and justifying the actions and perhaps inactions of their departments and departmental officials. The special features of DIAND as a government agency, however, and the nature of its current funding relations with First Nations confound

the simple model of ministerial accountability portrayed in constitutional theory. A recently published review of the concept of ministerial accountability undertaken by the Department observed that: (1) Ministerial accountability varies with the type of funding arrangement and service involved; (2) The exact nature of ministerial accountability is not always clear and is sometimes the subject of disagreements amongst the parties involved; and, (3) The implications of ministerial accountability for Indian-Government relations in the content of funding arrangements have not yet been clearly defined.

In many respects, the accountability to Parliament by the Minister of DIAND is similar to that of other ministers. With respect to public finances, the Minister is responsible for budget requests, for funds being spent in the programs (allotments and votes) Parliament approved, for funds not exceeding those allotted by Parliament for a given year, and for requesting supplementary estimates or a shift in funds between programs. The accountability mechanisms through which the Minister accounts to Parliament include: Part III of the Estimates, the Public Accounts, OAG comprehensive audits, parliamentary committees and governmental inquiries, parliamentary questions, and the Department's annual report.

In other important respects, though, the DIAND Minister's accountability to Parliament is seen by senior managers as different from, and probably more difficult to implement than, other departments. One reason, of course, is DIAND's mandate. Another reason is that most of DIAND's data on programs comes from the over 600 Bands and 70 plus Tribal Councils to whom service delivery and program development has been more or less devolved. The Minister is responsible to Parliament for fulfilling the obligations of the federal government arising from treaties, the Indian Act and about 45 other pieces of legislation. Under this mandate, the doctrine of ministerial accountability involves not only reporting to Parliament but also a responsibility to and for DIAND's main clientele.

The review of the different agreements, interviews conducted and the literature review convey that we are not in a position to properly assess the extent to which ministerial accountability is being met. This is because there is no framework in place by which one can assess whether accountability mechanisms are accurate, sufficient and effective.

Development of Operating Models

The results of the research presented in Addendum 1 undertaken as part of this evaluation entitled Accountability Study: Development of Operating

Models⁴, suggests that establishment of an accountability framework should be addressed in terms of three components: players, content of what one is accountable for and form. This model suggests prescriptive exercises the Department can undertake in exercising Ministerial Accountability.

The first component, players, deals with identifying the source of legitimacy for exercising power: delegation or constitutional power division? The players affected by accountability are on the one hand, those to whom power has been delegated and, on the other hand, those from whom the delegation of power comes.

The second component of accountability is the content of accountability whereby representatives of an organization are accountable for the organizational jurisdictions delegated to them: technical, managerial and/or institutional. The technical level refers to the production of goods and services. Its main operating principle is cost-effectiveness or efficiency, namely producing a given quantity of goods or services at the lowest cost. The managerial level refers to the management of relationships within an organization and the relationships between the organization and its different publics. Its main principle is one of efficiency. The institutional level involves inserting the organization into larger systems. The criterion is relevance or pertinence, meaning the "functionality" of the organization in relation to others in its environment.

The third component of accountability consists of the form of accountability. There are four distinct forms of accountability depending on the nature of the relationship between controller and controlled: professional, bureaucratic, political and legal. Each of these forms of accountability vary according to whether the source of control is internal or external to those who are accountable and according to whether the degree of control is small or large. In particular, this refers to the rigid or flexible nature of any control over the actions of accountable players.

Chart 5 presents a basic diagram for establishing an evaluation grid which will meet the requirements for accountability by utilizing the components that any accountability regime requires: players, content, and form.

The objective of such a grid is three-fold:

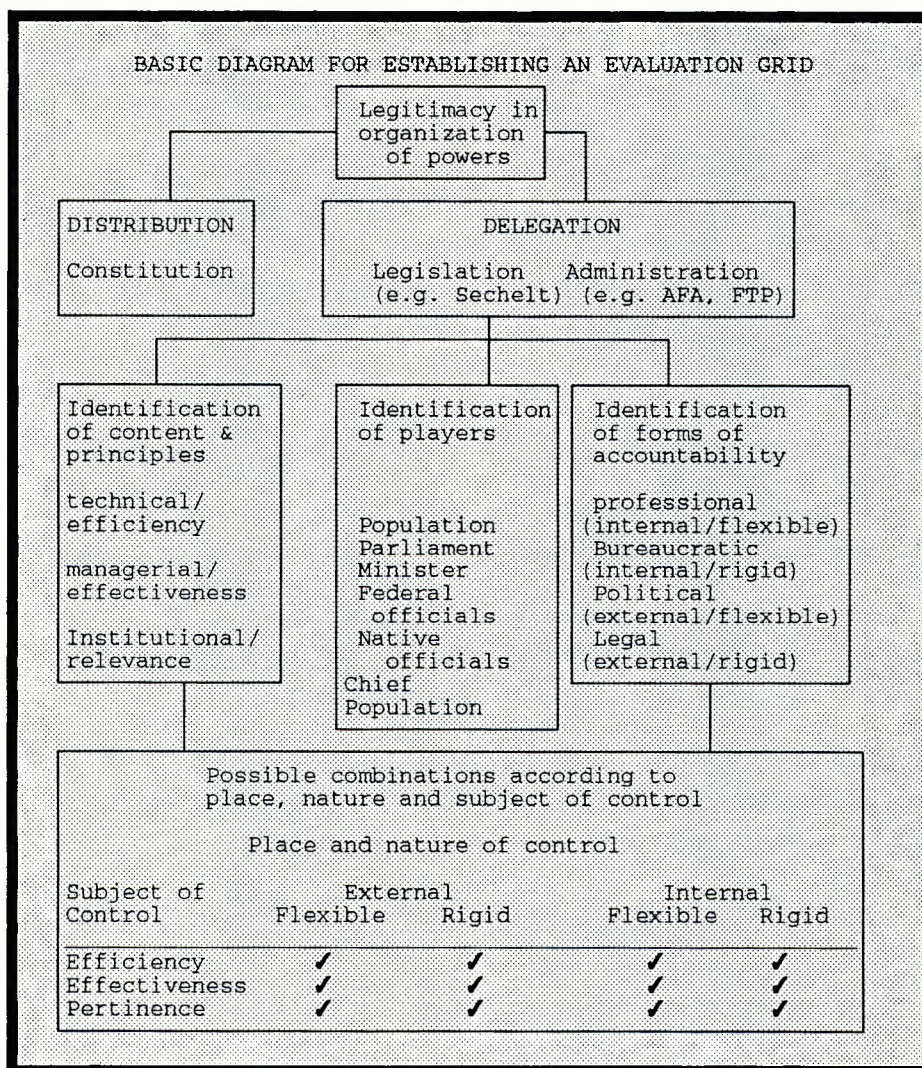
⁴

The Addendum 1 to the evaluation entitled Accountability Study: Development of Operating Models, April 1993, Bhérer, Harold and Caron, J. Daniel provides a more exhaustive analysis of the model presented here, along with prescriptive methods for its utilization.

- 1) identify form(s) of accountability which correspond(s) to the nature of the players and delegated powers in question;
- 2) identify accountability mechanisms relevant to the accountability form in question; and,
- 3) identify effective mechanisms for resolving problems.

Such an accountability framework must be able to guide the application of a range of accountability mechanisms to specific situations. An example of such an evaluation grid for the purposes of implementing an accountability framework is presented in the accompanying document to this evaluation, along with a more detailed basis for its application.

Chart 5



3.3 LOCAL FIRST NATION ACCOUNTABILITY

IT WAS FOUND THAT:

LOCAL ACCOUNTABILITY VARIES BY FIRST NATION AND TRIBAL COUNCIL

THERE ARE MANY ACCOUNTABILITY PRACTICES IN PLACE WITHIN INDIVIDUAL FIRST NATIONS

FIRST NATIONS ACCOUNTABILITY TO THEIR CONSTITUENTS HAS NOT BEEN MODIFIED AS A RESULT OF AFA

The evaluation found that First Nations utilize a variety of local accountability practices and mechanisms.

Chart 6

Chart 6 presents the main mechanisms utilized by 73 First Nations and Tribal Councils interviewed as part of the evaluation. The majority of the respondents use information dissemination (85%), followed by input from members (75%) or meetings (62%) and/or seek input from members on a regular basis (62%).

Table 4 presents the range of local accountability practices the evaluation found. The primary content of accountability practices by First Nations include technical\financial, bureaucratic\administrative, and political accountability.

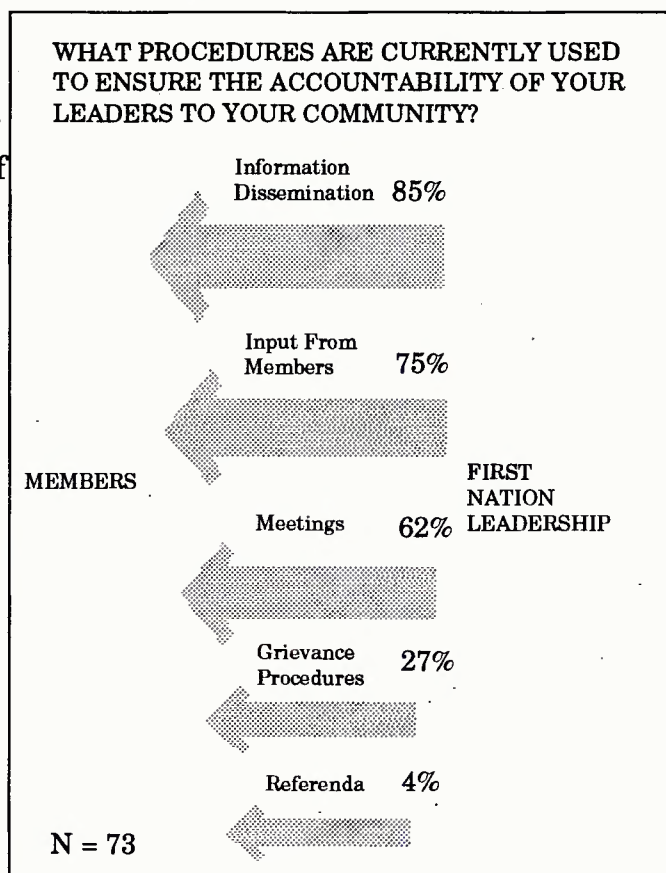


Table 4

TYPES OF ACCOUNTABILITY PRACTICES AND MECHANISMS UTILIZED BY FIRST NATIONS		
TYPE	PRACTICES	MECHANISMS
General	First Nations Constitution	
Technical\ Financial Accountability	Reporting	<ul style="list-style-type: none"> ✓ Annual Audit submitted to membership ✓ Monthly budget statements to Council
	Accessibility	<ul style="list-style-type: none"> ✓ Open access to books as per AFA Agreement
	Policy and Procedures	<ul style="list-style-type: none"> ✓ Financial regulations
Political Accountability	Reporting	<ul style="list-style-type: none"> ✓ Annual written report to membership outlining results achieved ✓ Newsletters (quarterly)
	Elections	<ul style="list-style-type: none"> ✓ Held every two years as per the <u>Indian Act</u>.
	Meetings/Consultations	<ul style="list-style-type: none"> ✓ General membership meetings (Min. twice annually) ✓ Monthly council meetings open to the public ✓ Committee System ✓ Home meetings⁵ ✓ Special general meetings held on specific issues
	Oath of Office	<ul style="list-style-type: none"> ✓ Oath of Office ✓ Council Standards of Conduct
	Accessibility	<ul style="list-style-type: none"> ✓ Open door policy to Chief and Council ✓ Personal development training for Band members to assert their rights
Bureaucratic\ Administrative Accountability	Reporting	<ul style="list-style-type: none"> ✓ Band Administrator reports to Council Monthly ✓ Ongoing monitoring by Council
	Policy and Procedures	<ul style="list-style-type: none"> ✓ Formal appeal processes, Personnel Manual.

⁵ Each counsellor is responsible for conducting home visits with the homes within their ward.

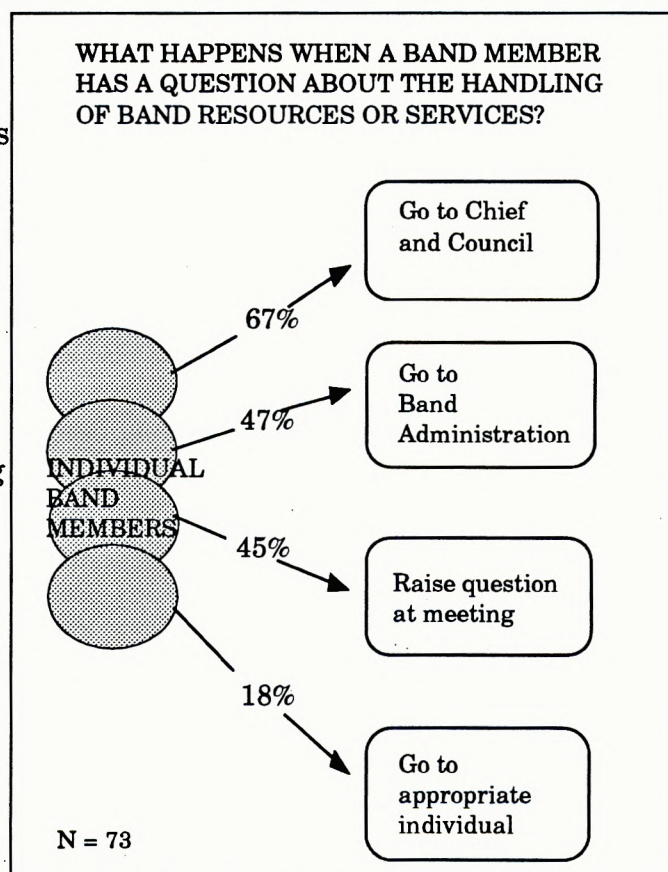
The primary accountability mechanisms available to individual members of First Nations are Band Elections. Based upon Band elections held between 1986 to 1991 for those Bands reporting under Section 74 of the Indian Act, the participation rates in local elections is approximately 65%. This compares favourably with the participation rates in elections at the federal level (73%), and the provincial level (72%)⁶. Participation rates among First Nations is much higher when compared to available data of participation rates of municipal elections held in Ontario (44%), Atlantic (53%), and B.C (54%).

Chart 7

Chart 7 presents avenues of recourse available to members of First Nations according to representatives of First Nations and Tribal Councils. When an individual Band member has a question as to the handling of Band resources or services, the primary avenue is for the individual to go to the Chief and Council (67%), Band administration (47%), or raise the question at a Band meeting (45%).

Range of First Nation Accountability Practices

Given the variety of accountability practices undertaken by First Nations, specific accountability regimes utilized by First Nations provide the opportune method for examining First Nations' Accountability practices. Two such examples are provided below, while more detailed case studies are provided in the appendices to this report.



⁶ Federal and Provincial election data are an average of the last three elections. Municipal data is the simple average of the last election for all municipalities in the respective provinces. For the Atlantic, the municipal election participation rates is a weighted average of Newfoundland, Nova Scotia and New Brunswick (data was not available from Prince Edward Island).

Case #1: Muskeg Lake First Nation

The first example of First Nations' accountability in practice is the Muskeg Lake First Nation (MLFN). According to interviews with Band leaders, Council governs by consensus with constituent feedback through elected representatives. Council is responsible for most decisions and performs multiple roles: it is the governing body, senior management, judiciary, complaints department, etc. Chief and Council view themselves as being ultimately accountable to Band members through the election process and maintain an open door policy. Information flow pertaining to Council decisions is viewed to be largely a function of the small size of the community, (302 on-reserve members during 1990).

The Band's administrative staff deal with the day to day issues and reports to Council on an on-going basis. The Band utilizes a portfolio committee structure for each program area. Each committee consists of an elected representative, administrative staff and membership-at-large. Formal accountability procedures include monthly newsletters, quarterly membership meetings, and written annual reports to the members.

According to interviewees, Council performs dual accountability roles. They are guided by the policy of the federal government and are accountable to the Minister, while at the same time they are accountable to an electorate which may or may not agree with this policy. When conflicts arise, the Council negotiates compromises with INAC and /or its constituents.

The views of individual Band members on the issue of local accountability were garnered through interviews with 37 on-reserve households chosen at random. The majority of interviewees (63%) think that the Band Council is accountable to its members. The Council is viewed as being responsible for making the decisions - accountable to the people on election day. Only 30% of the interviewees are aware of any mechanisms to challenge the Council. These included elections as the formal mechanism, and written and/or verbal contact with Council as a less formal, day to day mechanism. In terms of information dissemination, only 38% of the interviewees indicated awareness of Band Government decisions. The monthly newsletters were cited as the primarily source of information followed by general meetings, workshops and direct discussion with Council members.

Case #2: Norway House First Nation

The second example of accountability practices is the Norway House Band, in which interviews were conducted with Band leaders (11) and individual household members (10). Like the Muskeg Lake First Nation, the Norway

House Band Council sets Band policy, oversees the operation of the Band administration, and utilizes a committee format to administer programs. Outside of elections, accountability is established through Band meetings (one or two annually); monthly newsletters; bulletin board; announcements and interviews on local media; and, personal meetings with Council. (During 1990, there were 2,919 on-reserve members.)

Overall, interviewees could not agree on the effectiveness of Band accountability. Those in leadership positions felt that existing accountability practices are relatively adequate, while those in the community were either indifferent or believed that information regarding Band decisions was often not available.

All respondents agreed (albeit for different reasons) that Band meetings were not very useful. The principal reasons given were that they were too highly controlled; the community is fractionalized and disagreements tend to dominate the meetings; or the agenda is too restricted. The newsletter was viewed as a positive tool, along with the bulletin board, for informing members. Personal meetings with Council were seen as the most effective way of influencing Band decisions.

Impacts of AFA on Local First Nations' Accountability

As Chart 8 reveals, AFA has had marginal to no impact upon local accountability as only 32% of AFA First Nations and Tribal Councils interviewed experienced any changes in accountability systems as a result of the arrangement.

Through the case studies, the evaluation found that the accountability conditions of AFA are generally compatible with local requirements. Although in the absence of strict and enforced local accountability measures, accountability practises are more likely a result of the styles of First Nation leaders as was found in the First Nations' accountability study

Chart 8

AFA Impacts On Accountability Mechanisms			
First Nations & Tribal Councils	Perceived (or Anticipated) Changes to accountability mechanisms as a result of AFA		
	Yes	No	Other
With AFA	32%	65%	3%
In the process of getting AFA	29%	71%	0%
Do not have AFA	12%	38%	50%

conducted as part of this evaluation. Interviews with Regional Department officials, tend to concur with this finding. Since they argued that accountability mechanisms and practices in most cases have traditionally been part of the community culture or that there has been a history of the opposite. Politics at the community level generally determines the level of accountability to the membership.

Department Activities Related to Local Accountability

Table 5 outlines the main local accountability requirements within the AFA agreement, including the initial management assessment. In addition to these requirements, AFA First Nations submit expenditure plans to the Department, cash flow statements, annual audit, auditor's report and opinion, as well as annual review of its management development activities. Other reporting includes annual reporting of FTP, CA and AFA funded services, monthly operational and financial reports on contribution funded services and informal practices.

Table 5

FORMAL LOCAL FIRST NATION ACCOUNTABILITY REQUIREMENTS WITHIN AFA AGREEMENTS				
Activities	Account-ability	Formal Practices	Mechanisms	Monitored by DIAND
Entry Assessment	Political\ Technical	Joint examination of organization, management processes and accountability mechanisms	Joint AFA Entry Assessment	✓
AFA Agreement	Technical-Financial	Audited financial statements to be made available to Band members	Audited financial statements	
		Financial records in accordance with generally accepted accounting principles	Attested to by auditor	✓
	Technical	An Annual Report to members including as a minimum audited financial statements	Annual Membership Report	
	Political\ Bureaucratic	Council is accountable to members for leadership, management and service delivery	Informal practices	
	Bureaucratic	Post-Secondary Education decisions subject to appeal	Membership appeal process	
	General	Council acts on behalf of membership for purposes of the agreement		

Departmental respondents viewed the Department as playing a limited role with respect to local accountability. The Department is viewed as having a responsibility to monitor and call Chief and Council to account if they have stepped over the boundaries of acceptable behaviour. Where necessary, the First Nation may have to develop an action plan or undertake a financial management plan. Where questionable activity occurs, DIAND requests that a special audit be conducted, or, in severe cases, refers the matter to the RCMP.

According to respondents, the number of requests for information by individual Band members does not differ between First Nations with AFA or CFA. Band member requests for information are referred to Chief and Council, or they are informed to use the Access to Information Act.

Discussion on Local Accountability

DIAND's senior managers express concerns about the political accountability of First Nations politicians to (a) their members for their decisions, and (b) Parliament, through the Minister. Senior managers see the accountability relationship between First Nations leaders and their constituents as both a difficult and sensitive issue for the Department, given the history of DIAND and the obvious risk of being viewed as paternalistic against the current process of devolution. There is a sense that political accountability within First Nations communities has, in recent years, been enhanced as a result of increased education levels of native peoples, management development and training initiatives, and evolving social customs about personal conduct in public office. DIAND also endeavours to get information on the political entity in terms of the legitimacy of the system, the extent of its stability, and the existence of clear rules of operation. There is a sense too, however, that the Department can not demonstrate that political accountability within First Nations communities is a reality. Respondents felt that there is not enough transparency at the local level and questioned whether there should not be additional avenues for Band members. The concern is that there is a perceived void in the infrastructure of First Nations accountability. In this context, an audited annual financial statement is not held to be an adequate mechanism of accountability of Band Chiefs to their constituents.

3.4 DEPARTMENT\FIRST NATIONS RELATIONS

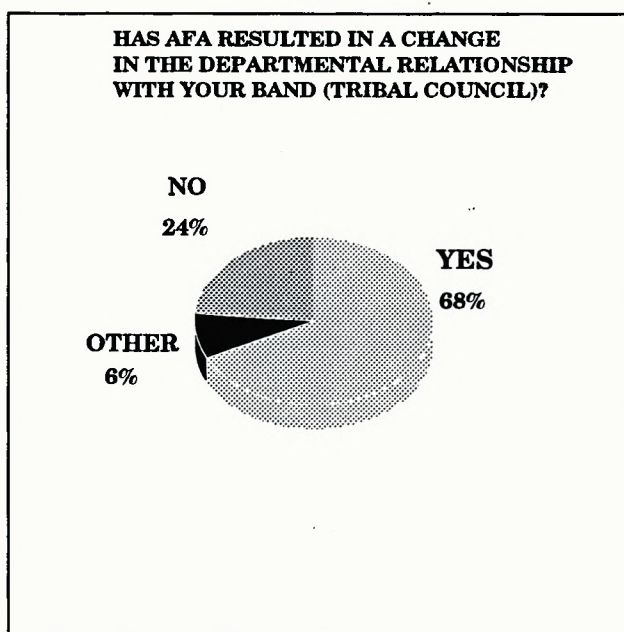
IT WAS FOUND THAT:

IN SOME CASES, AS A RESULT OF AFA, IT WAS FOUND THAT RELATIONS BETWEEN THE DEPARTMENT AND FIRST NATIONS HAVE BEEN MODIFIED. IN SUCH INSTANCES, RELATIONS ARE CHARACTERIZED BY LESS DEPARTMENTAL CONTROLS;

A TRANSITION PERIOD EXISTS BEFORE SUCH RELATIONS ARE CONSOLIDATED, AND THE LENGTH OF THIS PERIOD VARIES BY REGION AND FIRST NATION.

The evaluation found that relations between First Nations and the Department have been modified as a result of AFA. A majority of AFA First Nations and Tribal Councils (68%) observed that entering into AFA has resulted in a change in their relationship with the Department. These changes are characterized by First Nations as being primarily positive in nature, described with phrases like "increased trust", "less interference" and "more government-to-government-type relations."

Chart 9



Overall, communications between the Department and AFA First Nations and Tribal Councils are clear, and there is a tendency for the amount of contact to decrease once AFA is entered into. However, more of the contact that does occur tends to take place at more senior levels as relations move from a program basis to more of a government to government basis.

Another impact of AFA on Department/First Nations relations is that it increases the complexity of relations. This complexity largely stems from developing and administering line-item based, 5 year fixed budgets. These complexities often precipitate extended budget discussions and hence affect the amount of communications, the nature of relations, and the workloads on the part of First Nations and Department officials.

Although the majority of First Nations participating in the evaluation cited that AFA has had positive impacts on the relationship with the Department, a minority of First Nations and Tribal Councils stated that its introduction has worsened relations. The most frequently cited reason for this is the initial expectations of First Nations entering an AFA. Where the initial motives for entering AFA are based upon resource considerations, once in AFA and these expectations are not realized, relations can suffer.

The evaluation also found that a transition period exists before relations between AFA First Nations and the Department become more independent with reduced contact. Department officials noted the need for the recognition of such a transition period when implementing AFA.

3.5 RATE OF AFA IMPLEMENTATION:

IT WAS FOUND THAT:

THE RATE OF IMPLEMENTATION OF AFA IS DECLINING
NATIONALLY, WHILE SOME REGIONS HAVE REMAINED CONSTANT;

FACTORS AFFECTING THE RATE OF TAKE-UP OF AFA INCLUDE THE
INTRODUCTION OF CFAs, UNCERTAINTY REGARDING
DEPARTMENTAL MOTIVES FOR PROMOTING AFAs, AND THE WAY
IN WHICH AFAs WERE INITIALLY INTRODUCED.

As of 1992/93, there were 135 AFA Agreements across Canada, compared with 859 CFAs and 546 CAs. During the same time, 1,472 million dollars were transferred through CFAs, 546 million through CAs, and 543 million dollars were transferred through AFAs.

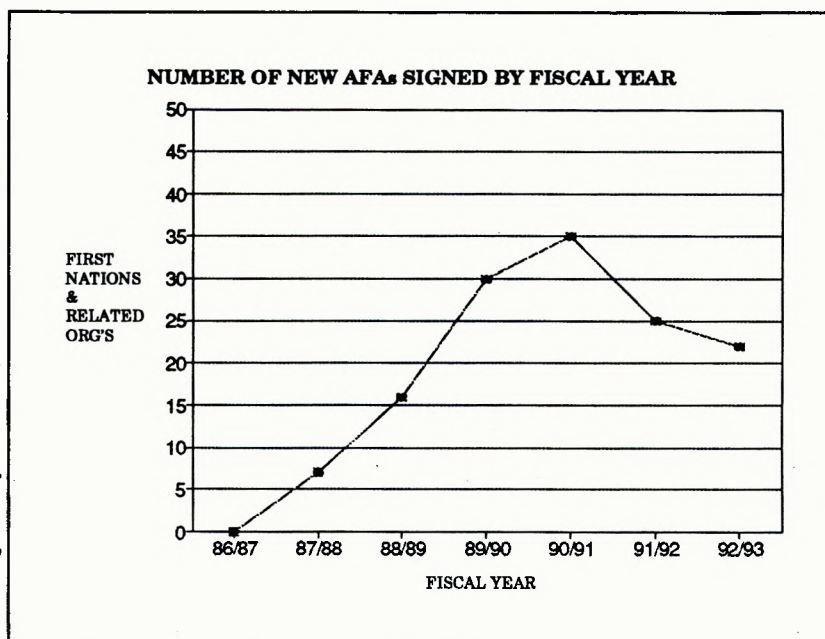
Chart 10 presents the rate of implementation of new AFAs between their inception in 1986/87 to 1992/93. As this chart shows, the rate of take-up of AFA by First Nations has been declining nationally; however, for some regions, such as Ontario and the Atlantic, the rate of implementation has remained constant.

Department officials in regions such as B.C., and Saskatchewan felt that the rate of take-up in AFA is slow and that in their estimation, there are First Nations who are eligible for AFA and could greatly benefit from it but who have not yet signed on. In regions such as Ontario and Atlantic, respondents felt that the rate of take up was about right.

Chart 10

Factors Affecting the Rate of AFA Implementation

Overall, respondents agreed that the initial interest in AFA expressed by Bands has reduced. The evaluation found various factors affecting the rate of AFA implementation. These include the introduction of CFAs, other policy issues consuming First Nations' time, and uncertainty among First Nations regarding the Department's motive for promoting AFA.



The initial implementation of AFA was cited as another factor affecting the take-up of AFA as there is now a strict adherence to no new equivalent funding increases as a result of entering an AFA. In addition, the recent Departmental reorganization initiatives have affected the ability of the Department to devote resources to developing AFA. Overall, however, respondents agreed that the rate of take-up of AFA is dependent upon First Nations seeing the successes gained by Bands on AFA. As such, they felt that the rate of take-up is variable and will increase as more AFA development activities are undertaken and more communication regarding AFA occurs between First Nations.

3.6 OTHER FINDINGS

3.6.1 THE FUNCTIONALITY OF AFA

IT WAS FOUND THAT:

THERE IS A DECREASING DISTINCTION BETWEEN THE DEPARTMENT'S DEFAULT FUNDING ARRANGEMENT (CFAs) AND ALTERNATIVE FUNDING ARRANGEMENT (AFAs);

AS A RESULT OF THE INTRODUCTION OF CFAs, AFA IS BECOMING LESS ATTRACTIVE TO FIRST NATIONS AND TRIBAL COUNCILS

Within the Department's spectrum of funding arrangements, the objective of AFA is to provide First Nations with an alternative, intermediary option between the Department's default funding option, Comprehensive Funding Arrangements, and its legislative option, Self-Government Financial Arrangements. The alternative funding option is to increase the program and financial flexibility of First Nations and Tribal Councils with the management capacity to manage their own affairs.

Linkages Between Funding Arrangements

With the introduction of Comprehensive Funding Arrangements (CFAs) as a replacement to Contribution Arrangements as the Department's default funding arrangement, the role of AFA has come under question. Formerly, the differences between AFA and CAs were quite large; with CFAs, however, the differences between AFA and the default funding arrangement have reduced. The evaluation found two main perspectives on the utility of AFA in its role as an alternative funding option in light of the introduction of CFAs.

From an operational perspective, CFA is more similar to AFA than were the previous Contribution Arrangements; therefore, the implementation of the two funding arrangements complement each other and assist First Nations in the transition to AFA. While CFAs provide similar financial flexibility as an AFA, it also makes AFA more realistic in what it is promoted as -- another way of funding which is more responsive to local needs.

A second viewpoint expressed in interviews is that the importance and utility of AFA is diminishing as it has not sufficiently progressed in relation to the changes made to the Department's default funding arrangement. According to these interviewees, there is a decreasing distinction between AFAs and CFAs, and, as a result, AFA is becoming decreasingly attractive to Bands and Tribal Councils.

Differences Between AFA and CFA

A straight comparison between the two arrangements is problematic as the characteristics of both arrangements may differ depending upon the nature and circumstances of how each arrangement is implemented by the Department and respective First Nations.

Respondents viewed the program and policy flexibility of AFA as its primary advantage over a CFA-FTP arrangement, followed by its long term planning aspects. Flexible Transfer Payments, on the other hand, maintain a Departmentally defined approach in program areas. However, the extent of these differences are dependent upon the utilization of the authority in AFA to make program and policy changes. Where this authority is not utilized, there is little difference between the two arrangements with respect to program and policy flexibility.

In terms of financial flexibility, the evaluation found little operational difference between AFA and CFAs as both arrangements enable some degree of transferability of funds between programs. The main difference is that under AFA, funds can be transferred between programs if the minimum program terms and conditions have been met; whereas with CFA, only approved surpluses can be transferred. In practice, however, these conditions are not consistently monitored; hence, there is little operational difference between the arrangements with respect to financial flexibility.

The differences in reporting requirements of the two arrangements is dependent upon the number of programs First Nations choose to have under their AFA and the funding method they adopt to transfer funds. The more that the initial intent of AFA is maintained, the less reporting that is required relative to other Departmental funding arrangements.

According to Department officials interviewed, there is a tendency by Headquarters and Regional Department officials to apply CFA terms and conditions to AFA agreements. Respondents maintained the need to ensure that the differences among funding mechanisms are well understood and explained among Department and First Nations' personnel so that a clear message on the opportunities provided by each funding arrangement is conveyed.

3.6.2 FUNCTIONALITY OF AFA WITH THE FUNDING ARRANGEMENTS OF OTHER DEPARTMENTS

IT WAS FOUND THAT:

**AFA HAS HAD POSITIVE IMPACTS ON THE NATURE OF FUNDING
RELATIONS BETWEEN FIRST NATIONS AND OTHER DEPARTMENTS;**

**YET, THE FUNDING ARRANGEMENTS OF OTHER DEPARTMENTS DO
NOT ALWAYS REFLECT THE MANAGEMENT NEEDS AND
CAPABILITIES OF FIRST NATIONS.**

The evaluation found some successful implementation of AFA with other Department funding arrangements. AFA enables Bands to more easily enter into cost sharing arrangements and pursue other Department and governmental funding more aggressively. Respondents viewed AFA as providing a basis for establishing government to government funding relations.

Nevertheless, the evaluation found that other Department's funding arrangements are contribution style arrangements and do not recognize the management needs and capabilities of First Nations. While the management capabilities of Bands on AFA are often viewed differently by other Departments, and are hence granted more latitude, this approach is not universally held. Departmental and First Nations respondents agreed that funding from other Departments should move towards an AFA type of an arrangement or should be included within AFA in order to enhance the policy and program development aspects of the arrangement.

3.6.3 IMPACTS OF THE RECENT DEPARTMENTAL REORGANIZATION ON AFA IMPLEMENTATION

IT WAS FOUND THAT:

DEPARTMENTAL REORGANIZATION HAS HAD AN IMPACT UPON THE IMPLEMENTATION OF AFA.

The recent Departmental reorganization which transferred the development and implementation of AFA from a centralized to a decentralized approach with the Financial Service Officers having responsibility has had an impact upon AFA.

The recent Departmental reorganization initiatives have affected the ability of the Department to devote resources to developing AFAs. In addition, with respect to implementation, as many FSOs are new to AFA, there is a tendency for some to treat AFAs like CFAs in terms of applying the agreement's terms and conditions.

3.7 PERCEIVED IMPROVEMENTS NEEDED

Overall, the evaluation found that First Nations with AFA were generally satisfied with the funding agreement. When asked about their feelings towards AFA, 17% of the AFA First Nations and Tribal Councils interviewed stated that they were very positive, 71% stated positive, while, only 3% were negative and none were very negative towards the arrangement. Strengths of the Agreement cited by First Nations include

the arrangement's flexibility, that it enables secured funding with increased autonomy, and that it facilitates long-term planning. Suggested improvements of First Nations and Department officials involve areas such as the AFA process, implementation, reporting, and the Department's spectrum of funding arrangements. Each of these areas are presented below.

3.7.1 PROCESS

Two main suggestions were put forth with respect to the AFA process. First, it was suggested that the Department adopt a soft marketing strategy which presents AFA as another funding option that provides increased authority for First Nations to manage more of their affairs; and, second, that the Management and Accountability Assessments be conducted independent of Departmental or band influence so as to achieve the best results.

Department officials suggested that the number of amendments, and the size of the amendment document be reduced. With respect to the size of the amendment document, efforts are already being undertaken within some regions, such as Alberta, to redesign the amendment document. Interviewees suggested that AFA efficiency could be improved by replacing the current amendment/adjustment process with one annual adjustment period.

First Nation respondents noted that they would like to be informed of all the funding formulas utilized by the Department to derive budgets. According to them, the provision of this information would allow them to verify and forecast funding levels. Respondents also suggested that when changes occur to AFA, emphasis should be placed on communicating these changes through workshops via Tribal Councils so that a consistent message is conveyed. It was noted that this would have the additional benefit of providing a forum for First Nations to communicate their experiences with AFA.

3.7.2 AFA IMPLEMENTATION

There are three main suggestions regarding the implementation of AFA. First, it was suggested that AFA development strategies be developed by the Department and First Nations which promote the utilization of AFA by interested First Nations seeking to expand their use of the agreement. Suggested considerations include special resources for development activities, and assisting First Nations or qualified third parties (eg: universities) in holding conferences on AFA programming and utilization.

A second area where suggested improvements were made regards the renewal of agreements. In consultation with First Nations, it was suggested that National Standard AFA Renewal Guidelines be developed. Such guidelines could address compliance and budget development issues in instances where First Nations have adopted to substantially modify programs. Such guidelines were also viewed as clarifying future Departmental intentions towards AFA. The timing of agreement renewal was also identified as requiring improvements in that agreements should be renewed before the end of the fiscal year.

A third area suggested for improvement is the training of Department personnel involved in implementing AFAs, as many personnel are new to AFA as a result of Departmental re-organization and decentralization initiatives.

3.7.3 REPORTING

In order to assist in the receipt of reports, respondents stated that the Department must be clear in terms of what reports are requested and follow-up in those cases where there is non-compliance. Respondents suggested that where there is no follow-up, or implications for non-compliance, First Nations receive mixed messages as to the importance of complying with reporting requirements. Further, respondents also suggested the need to maintain the current terms and conditions, as opposed to increasing them.

It was also expressed that the Department should encourage other Departments and levels of government to contribute to the production of First Nations' financial audit statements.

3.7.4 DEPARTMENTAL FUNDING SPECTRUM

Several suggestions were made by First Nations and Department officials with respect to the spectrum of Departmental funding arrangements. The main suggestion involves providing AFA First Nations the opportunity of moving towards community block funding, as opposed to program or line-item based funding.

Respondents agreed that there is a need for a clear distinction among Departmental funding arrangements and that the spectrum of DIAND's funding arrangements should be a more graduated system with improved links to facilitate access from one option to the next. Information packages and bulletins on the spectrum of Funding Arrangements and their

differences should also be developed so as to inform First Nations and Department personnel.

4. CONCLUSIONS AND RECOMMENDATIONS

Overall, the evaluation found that where AFA is implemented following its original intent, it is a highly effective and efficient means to transfer funds to First Nations and related organizations. Of those First Nations and related organizations interviewed, 88% were either positive or very positive towards the funding agreement. Strengths of the Agreement cited by First Nations include the arrangement's flexibility, that it enables secured funding with increased autonomy, and that it facilitates long-term planning.

First Nations and Tribal Councils such as the Nuu-Chah-Nulth Tribal Council and the Kitigan Zibi Anishinabeg First Nation were cited as examples of where AFA has been implemented as originally intended with multi-year budgets and the utilization of programming authorities. Where this is done, AFA has significantly enhanced First Nations' ability to plan, control and direct their affairs in a more autonomous manner. Examples of creative programming practised through AFA include innovative housing creation and maintenance programs; the education sector where funds have been directed towards language immersion, curriculum and capital projects; social programming such as community determined, variable benefit rates to better reflect seasonal requirements; and, the combination of social and economic development programs to create employment opportunities.

Since its inception, the Department has continually sought to improve the agreement through initiatives such as the Evaluation of the Short-Term Impacts of AFA (1989), and a joint review undertaken by DIAND and the Assembly of First Nations (AFN) (1992). Improvements implemented include doubling the amount of capital funding that can be transferred through the agreement to three million dollars, expanding the number of programs available under the agreement, increasing the amount of funds initially transferred during the fiscal year to enhance cash flow, and further reducing minimum program terms and conditions, as well as simplifying and reducing required program and financial reporting. These improvements serve to increase the flexibility that First Nations have in directing resources to meet community priorities.

4.1 MINISTERIAL ACCOUNTABILITY

There are various types of accountability mechanisms/systems/regimes/relationship within DIAND funding arrangements. Each type of these has a different set of reporting and

information mechanism, and a different set of corrective and remedial action systems.

There is no such thing as a hierarchy of accountability: someone is either accountable for something or is not. Hence, there is no degree of accountability but rather attributes associated with it. The evaluation found that current questioning on accountability can be attributed to the fact that there is no framework in place by which one can examine and judge if accountability mechanisms built into agreements are accurate, sufficient and effective.

- (a) Any appraisal of the adequacy, accuracy, sufficiency and effectiveness of accountability mechanisms of funding arrangements, and other devolution activities, will have to be addressed once a framework acknowledging these features is in place;
- (b) Utilizing the analysis and preliminary accountability thoughts developed as part of this evaluation, and in consultation with First Nations, the Department should confirm such an accountability framework and the approach for its application. It is recommended that this framework be implemented initially on a pilot basis with 2 or 3 cases across the country in order to make the appropriate corrections for its use.
- (c) The method of acquiring and allocating resources under AFA should be reviewed to address issues regarding appropriations and requirements.

4.2 LOCAL ACCOUNTABILITY

The evaluation found that local accountability varies by First Nation and Tribal Council. Although a variety of local accountability practices are undertaken by First Nations, the extent of their application are a result of the leadership styles of First Nations leaders. On the basis of indicators such as the level of local electoral participation, the number of lost elections, and the variety of practices encountered by the evaluation, the overall level of accountability at the local level appears to be quite high.

Nevertheless, there are concerns about the political accountability of First Nations to a) their members for their decisions, and b) Parliament, through the Minister.

Although DIAND endeavours to obtain information on the nature of local political accountability, it is both a difficult and sensitive issue. The

Department can not demonstrate that political accountability within First Nation communities is a reality and has tended to treat political accountability in terms of financial accountability.

- (a) In combination with First Nations and related organizations, and other federal Departments, and the Office of the Auditor General, consideration should be given to initiating investigations into options for First Nations to confirm local accountability practices by a knowledgeable, independent third party. Such a party could be the equivalent of a Bureau of the Native Auditor General within the Auditor General's Office.
- (b) Consideration should be given to inserting additional measures which confirm local accountability within Departmental funding agreements. An optional menu of such practices could be developed through consultation with First Nations and related organizations on a pilot basis as part of recommendation 4.1.b above.

4.3 AFA IMPLEMENTATION

Overall, the evaluation found that the impacts of AFA have been either neutral or positive on First Nations' management capacity. Of those First Nations and Tribal Councils interviewed, 47% stated that the arrangement has increased their management capacity and another 47% stated that it has had no change. AFA has led to increased efficiency in First Nations' operations, and has stimulated the development of more structured management systems. AFA has also had positive impacts upon program delivery.

The evaluation found that the financial flexibility aspects of AFA are utilized by First Nations. However, respondents viewed the real strength of AFA to be its policy and program flexibility. While evidence was found that this flexibility is being utilized by some First Nations, the potential of AFA is not being fully capitalized upon.

The evaluation found a number of impediments to utilizing the financial and program flexibility of AFA, which, in some cases, tend to sustain a program oriented relationship between the Department and AFA First Nations.

- (a) The Department should devise an AFA National Development Strategy which focuses on enhancing the utilization of AFA authorities. Components of such a strategy could include training,

and other resources and information materials directed towards development activities.

- (b) Regional conferences of First Nations and Tribal Councils to enhance communications and the utilization of AFA should be held.
- (c) Based upon existing administrative Departmental data, indicators on the quality of arrangements should be developed and reported to Senior Management on an ongoing basis. For example, the number of programs funded through AFA by Agreement should be monitored on an ongoing basis with the goal of having as many programs funded through AFA as possible, while maintaining the flexibility for First Nations to choose their own program menu.
- (d) All Department programs should be made available under AFA.

4.4 SPECTRUM OF FUNDING ARRANGEMENTS

The evaluation found a variety of opinions for the future development of AFA funding arrangements. While not mutually exclusive, many of the options put forth favour moving AFA towards a community based funding agreement in order to further the intent of AFA to enable First Nations to move towards globalized, as opposed to line-item based, budgets. If the Department chooses to investigate such an approach, consideration should be given to implementation on a controlled, pilot project basis, utilizing national terms and conditions. This would assist in avoiding potential differences in expectations, while establishing a basis for any further implementation of such a funding methodology.

- (a) AFA should be marketed with emphasis placed upon its potential to undertake flexible programming. Further, the Department should ensure that existing terms and conditions of funding arrangements are clarified and implemented so that the Department's funding arrangements are distinct and the intent and spirit of AFA is maintained.

4.5 AFA PROCESS

The evaluation found the Management and Accountability Assessment to be a potentially valuable tool for First Nations, as it assists them in enhancing management and accountability regimes. These benefits are maximized where a third party other than the Department and First Nation undertake the management assessment.

- (a) Management and Accountability Assessments should be conducted independent of Department or Band influence so as to achieve the best results. The option of making such assessments available to Bands which do not desire entry into AFA, but nevertheless want to improve their management regimes should be considered.

The number of amendments and adjustments currently being made to AFAs contributes to Departmental workloads and increases the complexity of relations between the Department and First Nations. Alternative methods for amending and adjusting AFA agreements so as to reduce the number of amendments and adjustments should be examined along with simplifications to amendment documentation. In addition, the recording of amendments and adjustments should be standardized, with regular reporting of the results to Departmental senior management.

- (b) The AFA amendment and adjustment process, and associated documentation, should be streamlined.
- (c) In consultation with First Nations, the Department should develop comprehensive National Standard AFA Renewal Guidelines to ensure a clear and standard application of Departmental policies and procedures.

The recent Departmental reorganization which transferred the development and implementation of AFA from a centralized to a decentralized approach has had an impact upon AFA. It has affected the ability of the Department to devote resources to developing AFAs and, in some instances, the FSOs now responsible for AFA lack the necessary experience and expertise. Given the nature of AFA and its emphasis on providing First Nations with a means to undertake long-term budget forecasting, the resources needed to develop and implement it often requires a team approach.

- (d) Consideration should be given to promoting a team approach to support Financial Services Officers during the initial budget development, implementation, and renewal stages.
- (e) The original intent of AFA to be a comprehensive, five-year funding arrangement should be reinforced.

ADDENDUM 1

ACCOUNTABILITY STUDY:
DEVELOPMENT OF OPERATING MODELS

JUNE, 1993

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EXECUTIVE SUMMARY

PURPOSE OF THE STUDY

This study examines two matters: first, it assesses the current situation at DIAND with regards to accountability; and, second, it presents means by which current concerns regarding accountability could be dealt with.

The research results are based on a series of interviews with senior management from DIAND and the Auditor General of Canada, an in-depth review of DIAND's funding arrangements, a review of case law dealing with accountability, a review of applied and theoretical literature on the subject, as well as theoretical considerations of DIAND's situation.

RESEARCH FINDINGS

The first observation made in this report relates to the fact that concerns with the accountability regime in DIAND arose with the growing transfer of responsibilities from the federal government to First Nations organizations. Accordingly, the question of accountability centres on funding arrangements. In the case of DIAND and the First Nations, the Canadian Constitution does not provide for the distribution of powers to First Nations. Native issues therefore fall under federal jurisdiction. Thus, Native organizations are part of what we call local governments, agencies and other bodies and are both autonomous in relationship to and accountable to other levels of government. Consequently, it creates a "sharing" between the Minister and leaders of Native communities of the responsibility and obligation to be accountable.

As a corollary, the research found that there is confusion between accountability mechanisms that are satisfactory to the Minister and those that are satisfactory to the native communities. Both are necessary and cannot be substituted for each other. The research also found confusion between accountability mechanisms and mechanisms to remedy problem situations. The two are complementary but again, one cannot take the place of the other. For example, a liability insurance policy does not replace the band council's obligation to account for the manner in which budgets are allocated.

The second observation made in the research is that accountability can go in several directions. One possible direction is a relationship based on responsibility and the obligation to be accountable between two players. In the same vein, once it is acknowledged that there are several players involved, each with their own role to play, the analysis of funding arrangements shows that accountability works in several directions. This means that the same player can be accountable to an electorate and, at the same time, to a funding agency. Finally, each accountability regime differs in terms of its attributes. The accountability mechanism to be accountable to a funding agency or a federal body is not the same as the one of a band council to its electorate.

CONCLUSIONS

The research reaches three conclusions. First, there are clauses within the current arrangements, principally in the form of measures for monitoring and intervention, which constitute elements of a model of accountability regime. Second, current questions on the issue of accountability are due to the fact that there is no process for indicating if the accountability mechanisms in place are relevant, sufficient and effective in meeting different accountability requirements. Third, it is necessary to develop an accountability assessment grid to appraise each situation according to the type of accountability in question, the relevant accountability mechanisms and the tools to remedy deficiencies.

The research ends in proposing the elements to build an accountability assessment grid. The conclusion upon which the grid is established is that there is no instinctive genuine accountability mechanisms for a given situation. To be satisfactory, an accountability framework has to be accepted by all partners and then complied with. This implies that DIAND will have to discuss with the Treasury Board of Canada, the First Nations, and the Auditor General of Canada in building an accountability framework.

ABRÉGÉ

OBJECTIF DE L'ÉTUDE

L'Étude comporte deux volets : tout d'abord, on y évalue la situation actuelle en ce qui a trait au régime de responsabilité du MAINC; ensuite, on y présente diverses façons d'atténuer les inquiétudes soulevées par ce régime.

Les constatations de la recherche sont fondées sur une série d'entrevue avec les cadres supérieurs du MAINC et du Bureau du vérificateur général du Canada; elles s'appuient aussi sur un examen en profondeur des mécanismes de financement du MAINC, une étude de la jurisprudence traitant de la responsabilité, une ressemblance des écrits pratiques et théoriques sur la question ainsi que sur des considérations théoriques sur la situation du MAINC.

CONSTATATION DE LA RECHERCHE

La première constatation porte sur le fait que le régime de responsabilité du MAINC est devenu source de préoccupations lorsque le gouvernement fédéral a commencé à céder de plus en plus de responsabilités aux organisations des premières nations. Par conséquent, la question de la responsabilité est axée avant tout sur les modes de financement. Dans le cas du MAINC et des premières nations, la Constitution canadienne ne prévoit aucun partage des pouvoirs avec les premières nations. Les questions autochtones relèvent donc de la compétence du gouvernement fédéral. C'est pourquoi les organismes autochtones font partie de ce qu'il est convenu d'appeler les administrations locales, les organismes et les autres corps constitués; elles doivent rendre des comptes aux autres ordres de gouvernement, tout en demeurant autonomes dans leurs rapports avec eux. Ainsi, la situation en est une de «partage» entre le ministre et les dirigeants des collectivités autochtones en ce qui a trait à la responsabilité et à l'obligation de rendre des comptes.

En corollaire, la recherche a permis de constater une certaine confusion entre les mécanismes de responsabilité qui satisfont le ministre et ceux qui satisfont les collectivités autochtones. Tous sont nécessaires et l'on ne peut substituer les uns aux autres. La recherche a aussi relevé une certaine confusion entre les mécanismes de responsabilité et les mécanismes de règlement de situation problèmes. Ceux-ci sont complémentaires mais là encore, il y a lieu de les distinguer. Par exemple, une police d'assurance-responsabilité ne peut annuler l'obligation pour le conseil de bande de rendre compte de l'affectation de ses budgets.

La deuxième constatation de la recherche est la suivante : la responsabilité peut s'exercer de diverses façons. Il est, par exemple, possible d'établir une relation

fondée sur la responsabilité et une obligation réciproque de rendre des comptes. Dans le même ordre d'idées, une fois que l'on admet la participation de plusieurs intervenants, chacun ayant son rôle à jouer, l'analyse des modes de financement révèle que la responsabilité peut être multiple. Cela signifie que le même intervenant peut être tenu de rendre des comptes à la fois à ses commettants et à un organisme de financement. Enfin chaque régime de responsabilité diffère quant à ses attributs. Un Conseil de bande ne rend pas le même type de comptes à un organisme de financement ou fédéral qu'à ses électeurs.

CONCLUSIONS

La recherche a permis de tirer trois conclusions. Tout d'abord, certaines dispositions des arrangements actuels, surtout en ce qui a trait aux mesures de contrôle et d'intervention, constituent des éléments d'un modèle de régime de responsabilité. Ensuite, les questions soulevées par la responsabilité découlent de l'absence de modalités qui permettent d'établir la pertinence, le bien-fondé et l'efficacité des mécanismes de responsabilité en place lorsqu'il s'agit de satisfaire les différents besoins en cette matière. Enfin, il y aurait lieu de concevoir une grille d'évaluation de la responsabilité afin d'évaluer chaque situation en fonction du type de responsabilité en cause, des mécanismes de responsabilité pertinents et des moyens de combler les lacunes.

En terminant, le rapport énonce les éléments constitutifs d'une grille d'évaluation de la responsabilité. Cette grille est fondée sur la conclusion voulant qu'il n'existe aucun véritable mécanisme de responsabilité instinctif pour une situation donnée. Pour s'avérer satisfaisant, tout cadre de responsabilité doit être accepté et respecté par tous les partenaires. Cela sous-entend que le MAINC devra entamer des discussions avec le Conseil du Trésor du Canada, les premières nations et le vérificateur général du Canada afin de mettre en place un cadre de responsabilité.

1. INTRODUCTION

1.1 Purpose of the study

The purpose of this study is two-fold. Firstly, its objective is to analyze the current situation at the Department of Indian Affairs and Northern Development (DIAND) with respect to accountability. The second objective is to propose practical models that would allow to deal with current concerns regarding accountability. These models must be applicable and express departmental concerns with respect to the delegation and transfer of powers to the First Nations.

This study is part of the evaluation of the long-term effects of alternative funding arrangements (AFA), a mechanism originally designed to increase autonomy in program design and delivery by Bands and Tribal Councils. The present study though is not limited to examining questions of accountability within alternative funding arrangements.

1.2 Research issues

This study addresses the following research issues :

- theoretical perspectives of accountability within the context of Canadian federal, provincial and municipal governments as well as international and aboriginal practices;
- usual accountability requirements and practices in DIAND programs and procedures;
- realistic options for implementing operating models of accountability for DIAND activities.

The questions dealt with in this study are integrated so as to provide a practical application of theoretical models of accountability which correspond to the current Canadian constitutional situation.

1.3 Research approach

The results of this research are presented in two different reports. First, this document, entitled Accountability Study: Development of Operating Models, presents an appraisal of the situation at DIAND, a survey of the concepts of accountability and the elements to build an operational accountability assessment grid.

The second report is the background paper. It includes theoretical discussions on principles of government, the organization of powers (division, sharing and

delegation), as well as theoretical components of an accountability regime. The report also includes an analysis current of accountability mechanisms under DIAND's funding arrangements. This analysis and the theoretical perspectives are supplemented by a discussion on possible operating models which could meet with DIAND's requirements.

The research results of both reports are based on a series of interviews with senior management from DIAND and the Auditor General of Canada, an in-depth review of DIAND's funding arrangements, a review of case law dealing with accountability, a review of applied and theoretical literature on the subject and theoretical consideration of DIAND's situation.

2. RESULTS

This section presents an assessment and analysis of the current situation at DIAND. These results are based on a detailed analysis of existing funding arrangements between DIAND and the First Nations, an analysis of the various master agreements, interviews with federal government senior officials, a review of related case law and a preliminary integration of concepts found in specialized literature. Our presentation highlights the main points, presents the main observations and formulates conclusions in the form of an analysis.

2.1 Assessment of the situation

The first observation to be made is that the issue of concerns with the accountability regime in DIAND arose with the growing transfer of responsibilities from the federal government to First Nations organizations. Therefore, the issue of accountability centres on funding arrangements. In our Parliamentary system, the Minister and the Departmental officials must account for the expenditure, administration and management of funds. In recent years, however, other parties who have spending responsibilities but who also have powers with respect to creating and modifying programs in order to meet what they perceive to be the priority needs of their communities were added to the regime. These are the band councils, tribal councils and other native government or affairs agencies.

Recent developments in funding arrangements demonstrate that there is more involved than simple methods for transferring funds to the First Nations. These arrangements are tools for re-engineering and constructing financial, administrative and political roles and relationships among Parliament, DIAND and the First Nations. This is clearly expressed in changes to the content of the funding arrangements (contribution arrangements, flexible transfer payments, alternative funding arrangements, etc.). It also prompted the Auditor General's remarks related to these questions, as summarized in Exhibit I.

EXHIBIT I

The Auditor General of Canada and Accountability: Situating the Problem

With the transfer of administrative responsibilities between the Department and native organizations, the Auditor General of Canada was not long in raising the question of the adequacy of controls and reporting requirements imposed on native organizations within funding arrangements. How can the Minister account to Parliament on the basis of the current level of control over the expenditure of funds? Thus, the issue of accountability within DIAND has become a concern for the Auditor General. Questions were first raised after a review of the funding arrangements. In his 1991 report, the Auditor General stated that "...DIAND lacks accountability framework... Funds administered by Indian bands and tribal councils need a proper accountability framework..." (p. 331)¹. But these questions quickly took on a broader scope. In 1992, the Auditor General raised similar questions and added to these concerns the lack of appeal mechanisms in tribal or band government jurisdictions. He referred to numerous complaints received by his office from native citizens and governments.

In raising these questions, the Auditor General also placed the issues of the relevance and effectiveness of the current accountability regime beyond the classic paradigm of ministerial responsibility with respect to the expenditure of public funds with the Minister's authority. The Auditor General broadened the issue to include the quality of services and the legitimacy of decisions made within the framework of the administrative process.

Although the Auditor General acknowledges the concept that bands should be able to modify programs funded by the federal government, he raised the point that: "...under the legislation currently in place, the Department still retains ultimate accountability for the way in which these funds are spent and the results they produce..."

¹ Report of the Auditor General of Canada to the House of Commons, 1991.

Even while respecting the principle that one can only delegate what is in one's own sphere, the administrative-legal terms contained in these arrangements allow for a change in the relationship between parties. Given the lack of general legislation on the subject, the issue of accountability thus must be tackled in the clauses of said arrangements. The question therefore becomes: what requirements should be inscribed in these clauses with respect to responsibility and accountability?

Therefore, the debate centres around funding arrangements. Due, once again, to a lack of general legislation, solutions to the questions raised by the Auditor General can also be found within these arrangements. But before presenting our analysis, let us briefly examine the development of funding arrangements.

In an effort to delegate responsibilities of First Nations, reduce the administrative burden and emphasize local accountability, DIAND developed a broader spectrum of funding arrangements during the eighties. For example, in 1986, a five-year self-government funding arrangement was implemented with the Sechelt Indian Band. In the same year, a new initiative called Alternative Funding Arrangements (AFA) was adopted, allowing Indian bands and tribal councils to negotiate new administrative and financial provisions which made native leaders primarily accountable to their communities. However, whereas self-government arrangements mostly fall outside the Indian Act, thus allowing greater flexibility and a greater delegation of powers, the AFAs aim at a maximum increase in band and tribal council control over their own affairs, within the limits of the current legislation. For example, under an AFA, a First Nation can extend its authority to establishing programs and spending funds according to the anticipated needs and priorities of the community given minimum terms and conditions are met. This cannot be done under traditional contribution arrangements. The only limits imposed under an AFA are compliance with the minimal standards of the program and the financial reporting requirements stipulated in the arrangement. In 1989, Flexible Transfer Payments (FTP) were introduced with the aim of decreasing reporting requirements for the bands and tribal councils in comparison to Contribution arrangements. This was made possible by no longer requiring the return of surpluses arising from the administration of a program, with the intention of encouraging better financial management and greater support for local decision-making.

The analysis of funding arrangements reveals DIAND's increased openness to the delegation of responsibilities solely through an administrative vehicle. However, it must be acknowledged that Parliament's method of appropriating funds has not been amended. As a result, one has to question the latitude allowed to DIAND in the delegation and transfer of responsibilities and powers. Adopting new funding arrangements such as AFAs and FTPs has established or simply extended accountability relationships that existed within First Nations as well as between First Nations and the Minister. These emerging accountability relationships add to the existing ministerial accountability requirements.

The system of accountability is thus becoming increasingly complicated. The financial arrangements contain reporting clauses relating to the current accountability regime. The question is knowing whether these tools are used, usable, relevant, adequate and effective.

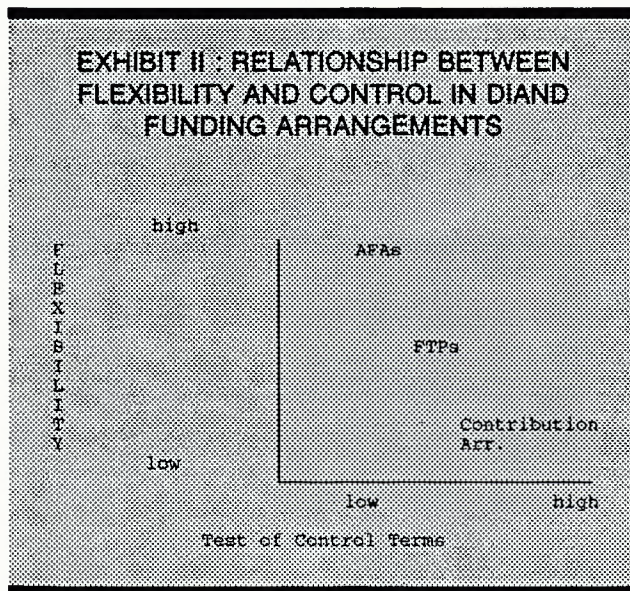
This brings us to our analysis of the situation.

2.2 Analysis

Our analysis comprises four observations and three conclusions.

Observations :

- 2.2.1 Funding arrangements evolved between the federal government and the First Nations as political developments occurred without, however, reflecting the reality of the Canadian public finance system. New kinds of funding arrangements allow increasingly flexible control between DIAND and the First Nations. In addition, control is becoming increasingly "external" to DIAND; that is there is a reliance on the increasing accountability of native leaders to the members of their communities. But on what grounds? What authority allows DIAND to appropriate funds according to the logic of Canadian public accounts and to account for them according to the logic of greater political autonomy of native communities?
- 2.2.2 There is some ambiguity surrounding what exactly is allowed under these new funding arrangements. From our research, it is clear that the AFAs and FTPs aim at greater flexibility with respect to program management. However, these arrangements do not at all deal with whether or not services are provided to the community. Moreover, the arrangements stipulate minimal standards. This creates a "sharing" between the Minister and leaders of native communities of the responsibility and obligation to be accountable. For example, the Minister must account for the level of service provided in relation to the funds obtained from Parliament for that particular purpose whereas the native leaders must account to their population for the manner in which the funds have been managed. They are not mutually exclusive but each generates different accountability requirements.
- 2.2.3 There is some confusion surrounding at least three aspects of the arrangements :
 - 2.2.3.1 There is confusion between flexibility and control. In actual fact, greater flexibility does not necessarily imply less control. In other words, DIAND can increase the amount of flexibility offered in the funding arrangements without likewise decreasing control. Under the current situation, the more flexibility increases, the more controls should increase, and not the reverse as can be seen in these arrangements. This is because funding is not unconditional and comprehensive



such as block funding but rather, funds are transferred for extremely specific program delivery purposes such as education, social development, etc. However, as EXHIBIT II illustrates, the new funding arrangements have operated according to an inverse relationship between flexibility and control.

2.2.3.2 There is some confusion between accountability mechanisms that are satisfactory to the Minister and those that are satisfactory to the native communities. Both are necessary and cannot be substituted for each other. In other words, ministerial accountability to Parliament does not fulfil the obligations of band councils to their populations, and vice-versa.

2.2.3.3 There is some confusion between accountability mechanisms and mechanisms to remedy problem situations. The two are complementary but again, one cannot take the place of the other. A liability insurance policy does not replace the band council's obligation to account for the manner in which budgets are allocated.

2.2.4 At least three factors contribute to the complexity of the system of accountability between DIAND and the First Nations.

2.2.4.1 Accountability can go in several directions. One possible direction is a relationship based on responsibility and the obligation to be accountable between two parties. Up to now, there has been a tendency to only take into account two large groups, the First Nations and DIAND. However, the review of funding arrangements and a more comprehensive analysis of the various situations clearly show that the players involved are not limited to DIAND and the First Nations. In actual fact,

the research suggests that it is erroneous to reduce the issue of accountability to a matter to be resolved between these two parties alone. Neither DIAND nor the First Nations constitute a single player. They are entities consisting of many players and many levels of responsibility. Reducing the issue of accountability to these two entities alone makes identification of those responsible difficult. Beyond the sole desire for accountability, there are everyday situations caused by the errors or negligence of persons who are accountable for actions that must be corrected. As implied in the funding arrangements, issues of accountability extend beyond simple questions of principle and theory. The construction of buildings must conform to codes, funds must be spent on child welfare, economic development must take place, etc. These are issues that the funding arrangements address. If errors are made, the system must be able to identify the person or persons responsible so as to be able to correct the situation and, at the same time, ensure that it does not occur again, while giving the responsible parties the chance to prepare themselves to respond to anyone harmed by them. It is thus essential to identify all the players involved and their respective levels of responsibility. We do not find this identification and recognition of the level of complexity in any of the funding arrangements between DIAND and the First Nations. This factor represents both a first element of complexity and the identification of a primary practice which will require amending if progress is to be made on the issue of accountability.

- 2.2.4.2 In the same vein, once it is acknowledged that there are several players involved, each with their own role to play, the analysis of funding arrangements shows that accountability works in several directions. This means that the same party can be accountable to an electorate and, at the same time, to a funding agency. For example, a band council which authorizes borrowing from a financial institution would be accountable to the financial institution and to its electorate. Similarly, when an arrangement between a native organization and the federal government is signed, the native organization is accountable on two counts; it is accountable to the federal Department for respecting the terms of the arrangement and to its population for the management of the funds received. This constitutes a second factor of complexity: one party can be accountable in several directions.

- 2.2.4.3 Each accountability direction differs in terms of its attributes. Accountability to a funding agency or a federal organization is not the same as the accountability of a band council to its electorate. The former is more financial and legal whereas the latter is certainly of a more political nature. Each of these situations will therefore require different mechanisms, according to the nature of the situation.

The observations discussed above lead us the three following conclusions :

- 1) There are clauses within the current arrangements, principally in the form of measures for monitoring and intervention, which constitute elements of a model of accountability.
- 2) Current concerns on the issue of accountability are due to the fact that there is no process for indicating if the accountability mechanisms in place are relevant, sufficient and effective to meet the different directions associated with the accountability requirements of several parties/players involved.
- 3) It is necessary to develop an accountability assessment grid to appraise each situation according to the type of accountability in question, the relevant accountability mechanisms and the tools to remedy deficiencies.

3. COMPONENTS OF A PROPOSED OPERATIONAL ACCOUNTABILITY ASSESSMENT GRID

3.1 Survey of the literature

This section begins with a presentation of the main findings of a review of the literature concerning accountability and related subjects. In addition, the second part presents an application of these findings to draft an operational accountability assessment grid. This is done while reflecting DIAND's funding and delegating activities within an accountability framework suited to the Canadian parliamentary system and native increased political autonomy.

3.1.1 Basic principles

We have seen that responses to concerns with respect to accountability can be found mainly within the clauses of the funding arrangements. We will now see how to formulate these terms on the basis of principles of government, forms of accountability and the associated accountability mechanisms.

It should be remembered that a player is accountable because he or she has been delegated power. The electorate delegates powers through representation. This explains the corollary to representation, namely the responsibility of the people's representatives. Representation and responsibility are the two sides of the principle of democracy. As representatives of the people, elected officials have had powers delegated to them. They are thus responsible and accountable to their electorate for their actions in the exercise of the powers delegated to them. This responsibility takes various forms, from decision-making and implementation bodies to sanctioning bodies.

As a result, it is crucial that relationships of responsibility and accountability among various players be established in relation to the distribution of powers. The organization of these different elements obviously varies from one political system to another. For example, contrary to the Canadian system, in which municipalities only enjoy powers delegated by the provinces, German communes enjoy full powers under the Constitution. To limit or simply regulate the exercise of communal powers, upper levels of government must pass explicit legislation with general application.

In the case of DIAND and the First Nations, the Canadian Constitution does not provide for the distribution of powers to First Nations. Native issues therefore fall under federal jurisdiction. Thus, native organizations are part of what we call local governments, agencies and other organizations and are both autonomous in relationship to and accountable to other levels of government.

Moreover, in the case of the federal government, the relationship also entails fiduciary obligations. On this issue of fiduciary obligations, a too restrictive interpretation could lead to extreme consequences and to deadlocks: insofar as the Minister's relationship with the bands remains purely legal and regularly appeals to the courts on the basis of the Indian Act to settle disputes, the Minister has complete responsibility and must take the appropriate measures to answer for events and situations, while closely monitoring the manner in and purpose for which funds are administered and spent. Pushed to an extreme, the Minister should not delegate either legislative or administrative powers but must be responsible for all administration so as to minimize risks. Under these pure theoretical conditions, it can be argued that contribution arrangements, flexible transfer payments, etc. are inappropriate mechanisms for administering funds destined for native communities.

However, the relationship between the Canadian state and the First Nations is not of a legal nature. It is also social, economic and, above all, political. An analysis of case law and legal opinions on the issue of the Minister's fiduciary obligations reveals that the fiduciary relationship applies to specific areas which link the State and the First Nations (e.g. see Guérin on reserve lands and Sparrow on existing aboriginal rights under Section 35 of the Canadian Constitution). Moreover, the fact that there is a fiduciary relationship between the Minister and the First Nations in certain areas does not imply that all their relationships are of a fiduciary nature.

Finally, there is a way of testing whether a relationship is controlled by a fiduciary obligation and legal experts estimate that, in law, a fiduciary obligation can be either terminated or "delegated" to a third party. In the case of a fiduciary obligation, the delegation of powers linked to that obligation should therefore be structured either to relieve the Minister of this obligation while making those who agree to terminate the relationship accountable for their actions, or using strict accountability mechanisms which ensure that the Minister is kept informed and can account for actions within the area in which powers have been delegated. The main result of a possible fiduciary obligation between the Minister and the First Nations in certain areas is to complicate testing, and possibly the mechanisms to be implemented, so as to ensure that accountability is clearly someone's responsibility and that this person or agency has the means to handle any deficit or damage that he or she may cause.

As a result, given the political relationship between the Canadian government and the First Nations, and the objective of greater political and economic autonomy for native organizations the idea of shared accountability must be introduced. Shared accountability means that in a co-management system, risks are assumed by all partners. In other words, one partner alone does not assume all the risks. We will see that the forms that accountability can take for each partner can vary for each partner, depending on the source of legitimacy. A partner elected by his or her constituents is subject to more flexible accountability than a private partner. However, we would like to emphasize that the acceptance of a delegation or sharing of powers also signifies the acceptance of shared accountability. As soon as the relationship between the Canadian government and the First Nations begins evolving towards enactment of self-government, legal and judicial ideas are no longer sufficient. Even constitutional amendments which would define a new division of powers and create sufficient accountability mechanisms would be subject to a transition and implementation period during which this approach, one of shared responsibility, would dominate.

In conclusion, it is representation, the acceptance to represent someone, which requires accountability to that person. The accountability is for what has been delegated, for powers which have been shared, and/or delegated. This is the universality of the notion of accountability. From there, accountability mechanisms and attributes may vary according to cultures and political systems. However, they must remain well-adapted and effective. It should be remembered that it is the manner in which powers are distributed (shared or delegated) which establishes the relationships of accountability and responsibility among the various parties.

3.1.2 Components

Although the organization and structure of the delegation of powers vary substantially according to constitutional and institutional conditions in different countries, the components of the concept of accountability, for their part, remain fairly constant and clearly circumscribed. The following comments are made in relation to this.

- 3.1.2.1 Accountability arises when a party/player is required to account to another one for his or her actions. Accountability is often spoken of rather as an obligation to give an account to report back, but it is useful to begin with a less prescriptive definition. A player is accountable because of the powers that have been delegated to him or her, in a wider sense. He or she has been given by another player a certain capacity for implementing and monitoring decisions. The second player can always take back what has been delegated. This is why the person to whom power has been delegated is called to account for how that power is exercised. Accountability, from this point of view, is a form of responsibility. It consists not only of the need to answer for one's actions - which is responsibility - but, more specifically, the need to account\report back on\for one's actions, i.e. justify them in relation to the reason for the delegation of power.

Thus, the players affected by accountability are on the one hand, those to whom power has been delegated and, on the other hand, those from whom the delegation of power comes. In this respect, four general groups of players in Canada, as in other countries, can be distinguished:

- elected officials in relation to the electorate

- the Executive in relation to Parliament (at least in parliamentary systems)
- the public service in relation to the electorate or their principals
- local governments, agencies and other autonomous organizations in relation to their public or to other levels of government which have delegated power to them.

The accountability of local governments, agencies and other autonomous organizations in relation to governments which delegate power to them is sometimes dealt with within studies involving the public service, but has not been subject to thorough investigation. The fourth group is obviously the group that includes native organizations which are accountable for powers that have been transferred to them by other governments but also by the electorate of their own communities. The autonomy of this fourth group of players is, in principle, greater than that of public servants in relation to government and that of the Executive in relation to Parliament. This results in, as in the case of elected officials in relation to the electorate, a more flexible and intermittent accountability, leading to a greater emphasis on responsibility.

- 3.1.2.2 With respect to the characteristics/attributes of an accountability regime the Accountability requirements of representatives of an organization have to be compatible with the type of organizational jurisdictions delegated to them : technical, managerial and/or institutional. The technical level refers to the production of goods and services by an organization. Its main operating principle is cost-effectiveness or efficiency, namely producing a given quantity of goods or services at the lowest cost. The managerial level refers to the management of relationships within the components of an organization and the relationships between the organization and its different publics. Its main principle is one of efficiency. Managers ensure that the components reach their objectives (efficiency may be one of these objectives) and look after relations with their different publics (this may be accessibility, equity, etc.). The institutional level involves inserting the organization into larger systems. The criterion is relevance or pertinence, meaning the "functionality" of the organization in relation to others in its environment.

However, insofar as these levels are mutually inclusive, considerations of relevance certainly often color the pursuit of effectiveness, and considerations of effectiveness color the pursuit of efficiency.

For example, a department which provides services to citizens will be primarily accountable, on a technical level, for its efficient use of financial, human or information resources in the provision of these services. At a managerial level, it will be primarily accountable for internal coordination and the effective provision of services which its programs were designed to provide.

3.1.2.3 With respect to the different forms of accountability systems they vary according to whether the source of control is internal or external to those who are accountable and according to whether the degree of control imposed is small or large. In particular, this refers to the rigid or flexible nature of any control over the actions of accountable players. Forms of accountability also vary depending on the context. For example, if we only look at the technical or managerial levels, the direct accountability of senior officials to Parliament can seem appropriate. However, at the institutional and strategic level, it is not as clear how accountability could be elsewhere than with the Minister, who is responsible to the elected officials and their electorate for the relevance of programs. Four forms of accountability can be distinguished:

- 1) a professional form of accountability, in which controls are internal and flexible;
- 2) a bureaucratic form of accountability, in which controls are internal and rigid;
- 3) a political form of accountability, in which controls are external and flexible;
- 4) a legal form of accountability, in which controls are external and rigid.

Each of these forms supposes a different relationship between controller and controlled as well as a different basis to the relationship. EXHIBIT III summarizes the differences between the four forms.

EXHIBIT III
FORMS OF ACCOUNTABILITY AND THEIR ATTRIBUTES

ATTRIBUTES				
Relationship between Controller & Controlled	Source of Control	Nature of Control	Examples	Relationship Basis
Professional	Internal	flexible	expert/layperson	respect for expertise
Bureaucratic	Internal	rigid	superior/subordinate	supervision
Political	external	flexible	represented/representative	receptivity
Legal	external	rigid	legislator/execution	respect for contract

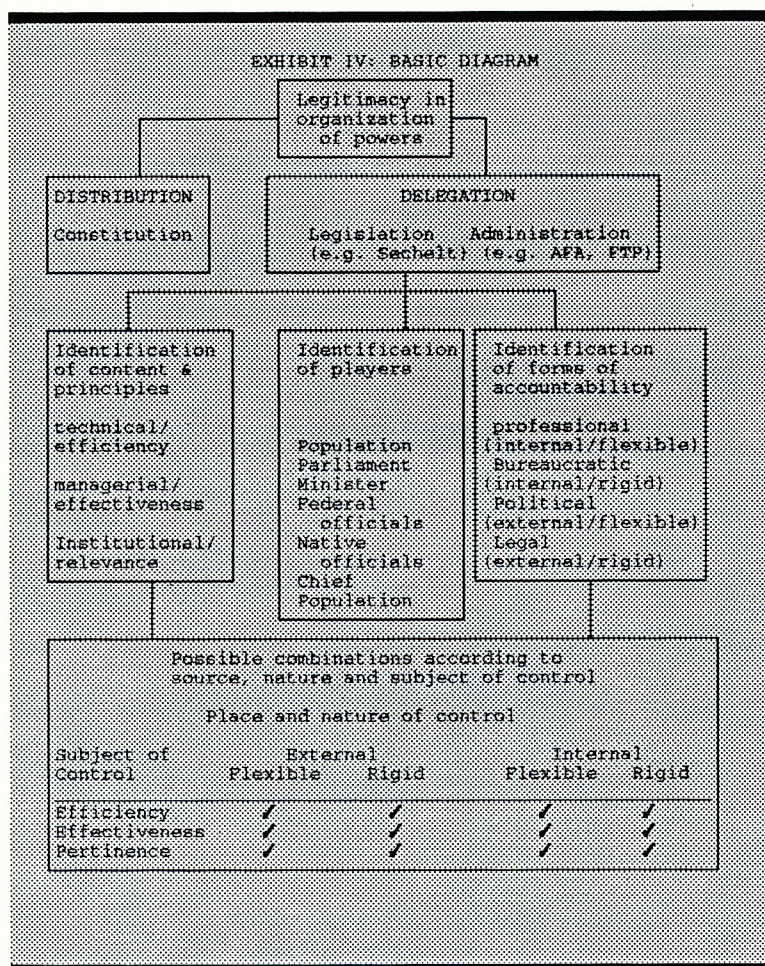
Thus, in the case of elected officials in relation to the electorate, it is not only political accountability which applies, even if it seems particularly important in this group of players. There can also be a form of professional accountability in which the controllers are, for example, party pollsters or even the elected officials themselves, in the name of their professional values.

There can also be a bureaucratic form of accountability for elected officials, which refers to the controls within parties or parliaments as organizations. Finally,

the legal form of accountability for elected officials refers to the fact that they are subject to laws, for example, the laws governing elections, which they are legally required to observe.

One can also demonstrate that a given accountability content can fall within one or another of the four forms, i.e. the technical level in the case of the public service. Accountability is professional when experts within a department control the use of financial, human or information resources. It is bureaucratic when control comes instead from the Treasury Board or the Auditor General. It is political when control comes from elected officials. It is legal when, for example, following the discovery of a misappropriation of public funds, the court is called upon to intervene.

Thus there are three components to an accountability regime: players, content and form. Added to these is the source of legitimacy for the powers being exercised. EXHIBIT IV presents a basic diagram for establishing an evaluation grid which will meet the requirements for accountability.



3.2 Evaluation Grid

This section presents a proposed evaluation grid which, without claiming to be exhaustive, could establish the first guidelines of a practical guide for defining and directing the Department's delegation activities in the face of the challenges of accountability.

The objective of the grid is three-fold:

- 1) identify form(s) of accountability which correspond(s) to the nature of the relationship between players and the distributed, shared or delegated powers in question;
- 2) identify accountability mechanisms relevant to the accountability form in question;
- 3) identify effective mechanisms for resolving problems.

PART ONE: IDENTIFICATION OF FORM OF ACCOUNTABILITY AND SOURCE, NATURE AND SUBJECT OF CONTROL MECHANISMS.

The form of accountability in play must be clarified before considering the implementation of any control mechanism - this is the objective of the first part of the grid. It is also necessary to define the relationship with respect to the number of players and ensure that each plays his or her role in relation to accountability.

EXHIBIT V, Part 1, lists the questions relevant to defining the aspects of the accountability grid.

DOCUMENT V, PART 1 IDENTIFICATION OF THE FORM OF ACCOUNTABILITY AND THE NATURE AND SUBJECT OF CONTROL	
✓	Is sharing or Delegation of power involved?
✓	Does the delegation arise from a specific Act or from an administrative action?
✓	Who are the parties involved?
✓	What is the subject of the delegation?
✓	Who is delegating?
✓	Are the representatives of the parties involved public or private representatives?
✓	Are they delegating to a third party?
✓	What is being delegated?
	- is it technical?
	- is it managerial?
	- is it institutional?

1) SOURCE OF LEGITIMACY IN THE DISTRIBUTION OF POWERS

Until constitutional changes alter the distribution of powers, all cases will involve the delegation of powers. This must be emphasized because in each case, there must necessarily be a legal relationship arising from legislation or an administrative action between those delegating and those receiving powers.

To eliminate any ambiguity, a clause stipulating that the situation involves delegation and not sharing of powers should be included so that the legal relationship is well understood and cannot be interpreted as a constitutional relationship.

In all cases, reference should be made to the Act governing the authority to delegate in order to manage possible specific obligations binding the Minister and clients or beneficiaries of services. The latter may indeed have a third party providing them with goods or services that they are entitled to expect to come directly from the Minister or the Minister's agents. If a particular Act is involved, such as the Sechelt Indian

Band Self-Government Act, then it involves an Act expressly written to allow for delegation. In this case, the Act should address questions arising from this grid. If a more general act is involved, such as the Indian Act, certain specific questions must be addressed, such as those involving fiduciary obligations or the possibility of the Minister delegating powers.

2) PRINCIPAL AND SECONDARY PLAYERS

The objective is to identify all players involved in the transaction. However, more importantly at this stage, the multiple relationships of accountability, upwards and downwards, are identified for each players.

In clearly distinguishing the players and their position in the relationship between the parties, the grid allows for a better sharing of levels of accountability (technical, managerial and institutional) according to roles and responsibilities. The ambiguities with respect to the responsibilities of each party are eliminated. This exercise is essential for identifying what each player must predict as sufficient accountability mechanisms and means (e.g. liability insurance) to remedy problems.

3) SUBJECT OF THE DELEGATION

The purpose of this section is to clearly define what is being delegated. The subject of the delegation can range from the provision of a service, goods (technical level), through the development of a system, the flexibility associated with the development of service delivery (management level), to the creation and management of an organization (institutional level).

4) INTERPRETATION OF PART ONE

The objective of Part One is to establish the relevant form of accountability for each pair of players delegated/delegator. The information must be analyzed with this in mind. For each pair of players identified, the information must be interpreted so as to establish one of the twelve possible combinations presented in EXHIBIT IV. This part of the evaluation grid is crucial because it determines the obligations of each party and the repercussions of these obligations for them and for the other parties.

PART TWO: IDENTIFICATION OF APPROPRIATE ACCOUNTABILITY MECHANISMS

As mentioned earlier, choices of accountability mechanisms is not neutral; culture - ethnic and organisational - plays an important role that must be considered in order to make sure one is clearly understood. Some forms of audit for instance, may, in a given

organisational and cultural context, overly focus a manager's attention to the sole elements to be examined to the detriment of others. This could have adverse impacts with regards to efficiency as well as effectiveness.

This is particularly significant since accountability mechanisms, like all control activities, are at the same time static and dynamic. They are static since they refer to notions such as inspecting or scrutinizing. They are dynamic because some accountability mechanisms relate to planning and organizing. Modern management is more supportive of the last attribute of control in concentrating its efforts on consultation and engagement of its members at all hierarchical levels. Control then becomes an activity of continuous mutual adjustment. Accountability mechanisms go well beyond their legal forms.

Exhibit V, Part II, presents a list of questions to be asked when deciding on the mechanisms to be used to ensure accountability requirements are met. These questions are basic circumstantial questions.

Exhibit V - Part II: Questions for Determining Adequacy of Accountability Mechanisms

- ✓ Is information needed?
 - If no, what's needed?
 - If yes:
- ✓ Who is it directed to?
- ✓ What information is needed?
 - On what grounds is it needed?
 - What specific topics must be covered?
- ✓ What type of information?
 - Quantitative?
 - Qualitative?
- ✓ What is the frequency?
- ✓ Who should collect the information?
- ✓ Should the information be verified?

PART THREE: IDENTIFICATION OF APPEAL MECHANISMS AND APPROPRIATE CORRECTIVE MEASURES

No matter what form of accountability is at issue an essential structural element of accountability is appeal and redress mechanisms. Exhibit VI presents examples of such mechanisms. If these mechanisms are to be appropriate and effective, they should conform to the nature of control required - flexible or rigid - and the place of

control - internal or external. The mechanisms presented here are not exhaustive, and like the other elements of the accountability framework presented in this report, would require agreement among the parties involved.

Exhibit VI Examples of Appeal Mechanisms and Forms of Redress		
	External	Internal
Rigid	Pre-Approval\Re-examination Evaluation Verification Appeals\Revisions	Pre-Approval\Re examination Evaluation Verification Reporting Appeals\Revisions Other consultations with public
	Appeals\Revisions Responsibilities to population Assurances of responsibility Responsibility through penalties and advertisement	Election and other forms Appeals and revisions advertised
Flexible	Contact Information Coaching Evaluation Reporting Organization	Contact Information Reporting Organization
	Coaching Training Advertisement	Coaching Training Induction and dismissal
Redress		

4. CONCLUSION

If one refers back to the distinctions between upward and downward, internal and external accountability, it could be said that native organizations are upwardly accountable to the federal and provincial governments and down-wardly accountable to their communities, externally accountable to legislation and other regulations and internally accountable to their own values.

What forms of accountability are the most appropriate for each of the categories of control? Consideration must be given to the level of organization in order to properly answer this question. It is a good idea to begin with the institutional level because it is the most inclusive, involving the relevance of the native organizations to the much larger systems within which they are included. For this, there are two external forms of accountability which are more appropriate, the political form and the legal form. The legal form serves well for the basics of the contract linking native organizations

to governments (executive and Parliament) which delegate power to them. The political form is appropriate for more flexible controls linked to economic conditions and specific events.

The managerial level involves accountability to communities served by native organizations. At the technical level, monitoring efficiency involves professional and bureaucratic forms of accountability, linked to the managerial and institutional levels of organizations.

Finally, it should be remembered that, in the area of accountability, as in other areas, technical efficiency must be subordinate to managerial effectiveness, and the latter must be part of institutional relevance (and not the reverse!).

**DATE DUE**[illegible]

Notes sur les œuvres

Les habitants de la Côte Ouest

(Photo en bas à gauche)

Les Indiens qui demeurent présentement le long de la Côte Ouest du Canada sont de la même descendance d'habiles marins qui ont navigué sur l'océan du Nord Pacifique, bien avant l'arrivée des Européens, dans des canots taillés à la main. Afin d'assurer leur subsistance, ces habitants affrontaient quotidiennement les risques d'une région fréquemment appelée le "cimetière marin du Pacifique". Le "Westcoasters" est un hommage visuel pittoresque à la volonté indomptable et courageuse des habitants de la Côte Ouest.

et sur les artistes ...

Roy Henry Vickers

Roy Henry Vickers, un Tsimshian de la Côte, a passé son enfance à Kitkatla, un ancien village Indien situé sur une île à l'embouchure de la rivière Skeena en Colombie-Britannique. Plus tard, sa famille s'installa dans la région de Victoria où il suivit des classes d'art. Il ne pouvait pas comprendre les peintres européens et les "grands maîtres". Ainsi donc, il se tourna vers l'art de son patri-moine Tsimshian et c'est ici qu'il découvrit sa créativité.

Dans peu de temps, ses œuvres d'art donnèrent de grandes espérances et il fut admis à l'institution "Gitanmax School or Northwest Coast Indian Art" à Ksan, Hazelton en Colombie-Britannique. Suite à deux années d'études sérieuses à Gitanmax, Roy a évolué en un artiste de forte compétence et possédant une aptitude prononcée à sensiblement marier les formes contemporaines et traditionnelles. (Roy est aussi un talentueux conférencier à l'Université et acteur de télévision.) Ses sculptures et peintures font partie des grandes collections publiques et privées au Canada, aux États-Unis et au Japon.

Creation

(Photo du milieu)

Si nous utilisons les paroles de cet artiste " ... les créations significatives sont guidées par les œuvres du Créateur et sont considérées sacrées. C'est de la nature que les peuples autochtones adoptent le symbolisme." Ainsi, la "Création" devint la première de ses peintures Iroquoises. C'est un œuvre qui décrit en symboles physiques une vision d'anciens concepts spirituels Iroquois : l'Île Tortue — la Terre, le Grand Arbre de la Paix — Fraternité et Unité, l'Aigle Gardien — le Gardiennage du Créateur, et le Soleil — notre Frère Aîné.

Arnold Jacobs

Arnold Jacobs est un artiste Iroquois des Six Nations qui se révèle en tant qu'interprète et historien de la culture abondante de son peuple. Suite à ses études en art spécialisé à l'école Central Technical de Toronto, Arnold continua de développer ses techniques distinctes au cours de treize ans d'expérience dans le domaine de l'art commercial. Ses travaux sont reconnus au niveau international.

L'expression créative d'Arnold est centrée sur les symboles de la terre et du ciel — tels que les eaux, les quatre vents, le tonnerre et le soleil. Pour lui, ces éléments et phénomènes vitaux sont aussi des forces spirituelles qui devraient nous inspirer une juste reconnaissance au Créateur.

*Traduction:

"... meaningful traditions are governed by the works of the Creator, and are believed to be sacred. It is from nature that the Native peoples adopt symbolism."

"The Goose and the Mink"

(Photo en haut à droite)

L'oie et la martre du Nord offrent une représentation vive symbolisant la lutte interminable et universelle entre le bien et le mal, les forces de la vie et de la mort.

Nous voyons dans la création animée et inanimée — dans celle de la proie et du prédateur ainsi que dans les variations entre les soleils éclairci et obscurci — une accentuation du conflit continuuel entre ces forces et le sentier qui les divise.

Jackson Beardy

Jackson Beardy est le cinquième fils d'une famille de 13 dans la communauté indienne isolée d'Island Lake quelques 600 kilomètres au nord de Winnipeg au Manitoba.

À l'âge de 7 ans, il fut privé de son chez-lui et de son langage et passa douze années désorientées et traumatisantes dans un pensionnat. Jackson a donc vécu son adolescence à lutter pour se réconcilier avec les deux mondes des indiens et des blancs. C'est à ce temps-là qu'il partit vers le Nord en vue de réapprendre les usages et les préceptes de son peuple.

Plus tard, méconnu et ne connaissant aucun autre artiste Indien au Canada, il développa une forme d'art particulière décrivant les légendes traditionnelles et la nature en images créatives, symboliques et d'une coloration unique. Avec le temps, ses peintures ont pris place parmi les collections reconnues à travers l'Amérique du Nord et l'Europe. Sa mort récente en décembre 1984 fut une perte déplorable pour le Canada.