



FISCAL FAIRNESS FOR FIRST NATIONS

A Submission by the

ASSEMBLY OF FIRST NATIONS

as part of the

Restoring Fiscal Balance in Canada Consultations

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“Funding for First Nations programs has increased in recent years, but not at a rate equal to population growth. Indian and Northern Affairs Canada’s funding increased by only 1.6 percent, excluding inflation, in the five years from 1999-2004, while Canada’s Status Indian population, according to the Department, increased by 11.2 percent.”

Auditor General of Canada 2006

ISSUE

The Conservative platform committed to exempt Indian and Northern Affairs Canada (INAC) from “a limit on the growth of spending on federal grant and contribution programs... to the rate of inflation plus population growth.”

Exemption from this limit is important for First Nations in order to end the fiscal discrimination and enable our governments to recover from past losses created by the arbitrary 2% cap on spending on core services that has been in place since 1996.

BACKGROUND

1) *A Punitive Rate of Growth*

Since 1996, Government of Canada has maintained an arbitrary 2% cap on spending increases for core services.¹ This is less than one-third of the average 6.6% increase that most Canadians will enjoy through the Canada Health and Social Transfers in each of the next five years (see point 2 for more details). This 2% cap is almost equal to the average rate of inflation. However, First Nations have the fastest growing population in Canada, with INAC reporting a population increase of over 21% since 1996.² In fact, when adjusted for inflation and population growth over time, the total budget for INAC has decreased by 3.5% since 1999-2000, and funding for core services such as education, economic and social development, capital facilities and maintenance has decreased by almost 13% since 1999-2000.³

It is important to note that this 2% freeze, a contribution to the elimination of the deficit, was supposed to last for two years. Because it was to be short-term, no serious analysis of the implications for the quality of life of First Nations has ever been carried out. It has remained in place despite the Royal Commission on Aboriginal Peoples Report and subsequent political commitments to address the quality of life issues of First Nations.

¹ It should be noted that while INAC’s budget has grown at an overall rate in excess of 2%. This is due largely to meeting lawful obligations stemming from specific and comprehensive claims, treaties, and litigation. INAC estimates for contingent liabilities from litigation and claims were \$15.3 billion as of March 31, 2005. This is up from \$9.1 billion in 2001. More information available at http://www.tbs-sct.gc.ca/rma/dpr1/04-05/INAC-AINC/INAC-AINCd45_e.pdf

² Also, in some sectors (e.g. health and housing), inflation is much higher than average which means funding will need to increase at levels greater than population and growth to maintain current levels of service. This is why those areas have been negotiating their own cost driver formulae.

³ Financial data are from INAC Departmental Performance Reports and TBS Main Estimates. Population data are from INAC published research. Inflation data are from Statistics Canada’s Consumer Price Index (CPI)



2). *Recent Growth in Federal Funding for Programs and Services for Non-Native Canadians*

Most Canadians enjoy the security of what has come to be known as the “social safety net” -- the fundamental programs and services that prevent and protect Canadians from suffering the excesses of poverty. These are programs and services that Canadians rely upon for their health, education and social assistance needs. The federal government provides funding to the provinces for these core services through the Canada Health and Social Transfers⁴. Federal payments under the Canada Health and Social Transfers rise on average at a rate of 6.6% per year. By 2009-10, the Canada Health and Social Transfers will have increased by 33% over 5 years (from \$43.2 billion in 2004-05 to \$57.3 billion in 2009-10). This makes sense given inflation, population growth, and increasing need as the Canadian population gets older.

In addition, the equalization program that provides support to ‘have-not’ provinces received increases of 9.9% in 2004-05 and 8.4% in 2005-06 for a total increase of \$10.9 billion. Those payments will be further increased by at least 3.5% each year for the next 10 years, for a total of at least \$15.4 billion by 2016. Moreover, the federal government has said it is prepared to discuss the purported fiscal imbalance with the provinces. The implication is that further federal investments in these programs may be forthcoming.

3) *A Look at Per Capita Funding Levels*

First Nation governments are forced to get by on significantly less than provinces and territories. It has been popularly reported that First Nations received roughly \$8,500 per capita in programs and funding from the federal government in 2005. While this appears significant, it is important to realize that this funding is for *all* services, including services that other Canadians receive from other levels of government, such as primary and secondary education (provided by provincial governments) and roads and infrastructure (provided mainly by municipal governments). In fact, when compared to what the average Canadian citizen receives in programs and funding, First Nation government funding lags significantly behind. For example, in 2005, the three levels of government spent a combined average of \$15,188 on each Canadian citizen; almost twice as much as was spent on each First Nations citizen.⁵

Moreover, under the Territorial Formula Financing Agreement for 2005-06, the per capita grants to the territories were \$26,633 for Nunavut, \$16,604 for the Northwest Territories, and \$15,709 for the Yukon.⁶ While the rural and remote nature of their communities and low population density provide the explanation for these grants, the same need exists in other regions for many First Nation communities. In fact, about 60% of First Nation

⁴ The Canada Health Transfers and Social Transfers provide provinces with funds for core services such as health, education and social assistance. This is legislated as non-discretionary funding and is designed to take into account population growth and inflation.

⁵ Figure is based on preliminary AFN analysis derived from Statistics Canada Table 385-000112 “*Consolidated federal, provincial, territorial and local government revenue and expenditures, for fiscal year ending March 31, annual (Dollars)*” <http://www40.statcan.ca/I01/cst01/govt01b.htm>. The AFN has not yet had the opportunity to discuss these figures with federal government officials.

⁶ Figure derived from the Council of the Federation Advisory Panel on Fiscal Imbalance. *Reconciling the Irreconcilable: Addressing Canada's Fiscal Imbalance*, 2006. pg. 51. www.councilofthefederation.ca/pdfs/Report_Fiscalim_Mar3106.pdf

communities have fewer than 500 residents, while over 65% of on-reserve Status Indians live in rural, remote and 'special access' areas.⁷

Further, the funding that First Nation governments receive from the federal government for core services is treated as 'discretionary' spending, meaning that budget allocations are not legislated over a five year horizon as are federal transfer programs for other Canadians. This means that First Nation governments can be subject to sudden declines or freezes in transfers making it difficult to plan for medium-term projects.

Finally, there is a question of 'own-source revenue'. Relying upon the measures used to determine fiscal capacity for the provinces (i.e., the ability to raise revenue) First Nations have limited fiscal capacity. Nevertheless, in 1996, First Nations willingly participated in discussions with the federal government to develop a new transfer system, including consideration of own source revenue. The federal government ended those discussions abruptly before they were completed.

4) *Discriminatory Funding Limitations in Other Areas*

The issue of sustainable funding levels is not limited to INAC. Of particular concern is the Non-Insured Health Benefits (NIHB) program administered by Health Canada. The NIHB program is likely the most visible and frequently accessed program by First Nation clients in need of health care. It represents close to half of Health Canada's total expenditures in First Nations (and Inuit) health. Increases in funding levels are limited to the annual population growth rate,⁸ but they do not take into account health needs and cost drivers, or provincial health reforms impacting NIHB, such as hospital closures and increased demand for medical transportation due to the remote and isolated locations of many First Nation communities.⁹

Several First Nation communities and regions have brought to our attention the concrete impacts of current and impending funding shortfalls. These impacts include: nursing shortages forcing closures of community health facilities, lack of capacity to effectively deal with early detection of tuberculosis outbreaks, cutbacks to medical transportation preventing early detection and prompt follow-up of patients with chronic disease, and turn-back of transferred health services to federal management.

The AFN estimates a health funding shortfall of close to \$2 billion over the next five years. This shortfall is a result of the following factors:

- A 3% cap on the majority of federally-funded health programs of Health Canada's First Nations and Inuit Health Branch (FNIHB) as of April 1, 2007;
- Budget 2005 cutbacks totaling \$112.3 million between 2006 to 2008;
- A \$1 billion program review for 2006/07 and 2007/08 in Budget 2006;¹⁰

⁷ Overall, 35 percent of on-reserve Status Indians live in urban areas, while 45 percent live in rural areas, 17 percent in special-access areas and 4 percent in remote zones. INAC, *Report on Plans and Priorities, 2005-06*. pg. 12. http://www.tbs-sct.gc.ca/est-pre/20052006/INAC-AINC/pdf/INAC-AINCr56_e.pdf

⁸ Currently, the majority of community-based programs receive increases of less than 3% annually.

⁹ For more information on health funding, please see the AFN Communiqué available at: <http://www.afn.ca/cmslib/general/Communique-FNIHB.pdf>

¹⁰ While the impact on federal health programs for First Nations is not yet known, AFN has estimated that FNIHB will be responsible for a similar proportion of 2.5% that was identified in Budget 2005 cutbacks.



- An estimated need in annual budget growth of 11.3%.

5) *Other Concerns with Federal Funding for First Nations*

There has been much lower growth in targeted funding to First Nations compared to 'aboriginal' programming. Other recipients of INAC funding include Inuit programs, INAC and Health Canada administration, other government departments, other levels of government, and non-governmental and private sector organizations without ties to First Nations.¹¹ The portion that is actually transferred to First Nation government control is approximately 67% of the total,¹² although the flexible use of funds is severely restricted through a variety of funding mechanisms, the most significant of which are contribution agreements.¹³

First Nations have cultural, socio-economic, and demographic characteristics that are distinct from the other aboriginal groups and the rest of the country and, therefore, are not well served by generic 'aboriginal' programs or policies. Moreover, First Nations are building upon different societal institutions and working within a unique and restrictive regulatory structure. It is important that new programs ensure that funding is targeted specifically to First Nations, acknowledging the constitutionally recognized status of First Nations and the distinct federal fiduciary obligation in this regard.

A final concern regarding current funding levels emerges from the Auditor General of Canada's findings over the past several years. In numerous reports, the Auditor General notes that it is difficult for services to be delivered to any standard because of constraints such as insufficient resources, lack of clear roles and responsibilities, and unbalanced expectations and responsibilities. In the past, it appeared that governments have kept away from implementing and monitoring standards because it would have been impossible to meet them under the respect funding regime. While the new Conservative government seems to be embracing the need for standards, it is essential that they understand that increased resources and capacity are necessary if standards are to be met.¹⁴

¹¹ Sources: Financial data are from INAC Departmental Performance Reports and Treasury Board Secretariat's Main Estimates. Population data are from INAC published research reports. Inflation data are from Statistics Canada's Consumer Price Index.

¹² This figure is an estimate based on a review of available information from the thirteen federal departments that provide grants or contributions to First Nations. The number should be distinguished from what the departments claim to spend on aboriginal programming which includes groups other than First Nations. It must also be distinguished from what departments claim to spend on First Nations issues, which includes administrative and program funds that are not provided to First Nations through grants or contributions. Relevant data can be found in the Main Estimates of the Government of Canada at <http://www.tbs-sct.gc.ca/est-pre/estime.asp> or in the individual Departmental Performance Reports of each of the thirteen departments which can be found at <http://www.tbs-sct.gc.ca>.

¹³ Contributions programs are programs managed by the Government of Canada that provide funds directly to citizens or organizations. In this case, INAC sends approximately two-thirds of all its spending to First Nations in the form of contributions programs. Restrictions on contributions programs vary, however, INAC has detailed agreements with First Nations for all funds, specifying the purpose of the funding and how the First Nation must account for funds received in reports to INAC. For more information, please refer to those funds listed as contributions in the Main Estimates or in the Departmental Performance Reports for INAC, both of which are cited above.

¹⁴ This is confirmed in the Auditor General of Canada's Report released in May 2006 (<http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20060505ce.html>), as well as in her December 2002 report on *Streamlining First Nations Reporting to Federal Organizations* which identified 5 principles of effective accountability that clearly point to this issue (<http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20021201ce.html>).

6) *The Question of Structural Change*

One oft cited reason for holding growth in core programs for First Nations to 2% is the need for structural reform. However, it is difficult to understand how limiting the current life chances of First Nation citizens is an appropriate lever for such reform. While First Nations will no longer accept structural reform imposed unilaterally, they have signaled their readiness to engage in mutually respectful policy development in many key areas. For example, in the lead up to the Kelowna Accord, the AFN argued for building in strict measures to assess 'what is working' with new investments. Yet, in spite of all its policy capacity, the federal government seems reluctant to engage in a genuine discussion of structural change.

CURRENT SITUATION

Over the past two and a half years, the AFN has made numerous efforts to lobby the government to end this fiscal discrimination against First Nations, beginning with lifting the 2% cap. These efforts have included the publication of research documents such as *Federal Government Funding to First Nations: The Facts, the Myths, and the Way Forward*, and a background paper presented at the May 31, 2005, Cabinet Retreat on Aboriginal Issues entitled *Unequal Treatment of First Nations Questioned*. The issue has also been raised in both the 2004 and 2005 Pre-Budget Submissions, and repeatedly with Ministers, Parliamentarians and senior government officials. Despite these intensive efforts, our calls for ending this fiscal discrimination and movement towards a sustainable funding base for First Nation communities has fallen largely on deaf ears.

There are signs that the federal Conservative government may be willing to consider lifting the 2% cap on core funding. The Conservative campaign platform commits to:

Limit the growth of spending on federal grant and contribution programs and by federal departments and agencies (other than National Defence and Indian Affairs) to the rate of inflation plus population growth.

This provides welcome news to First Nation governments as it could result in a positive improvement to overall service budgets on reserve. In particular, the Conservative commitment to allow increases in INAC funding to exceed inflation and population growth may provide a way for First Nation communities to receive much needed immediate increases in funding while the Conservative government 'refines [the] allocation' of the Kelowna First Ministers Meeting spending commitments.

There is one mitigating factor. The Conservatives have acknowledged the federal government's jurisdiction for basic programs and services to "Indians and Lands Reserved for Indians." They have also noted that the provinces and territories must take the lead in addressing issues of ill-health and poverty among off-reserve 'aboriginal' people. However, they have said that the government "...must reform the Aboriginal Affairs policies to reflect the fact that the majority of Aboriginal Canadians live off-reserve." As a result, the Conservative platform acknowledged a need to realign federal expenditures to include appropriate and adequate distribution of resources in order to accommodate the needs of off-reserve and non-status Indians.



It is important to realize that, despite popular claims recited in the media, the majority of First Nation citizens continue to live on reserve. According to INAC, of the total Registered Indian population of 756,700, 62% (471,900) live on-reserve while 38% (284,800) live off-reserve.¹⁵ Furthermore, according to INAC's population projections, while the population of Registered Indians living on reserve is expected to grow by 3.5% a year, the population of Registered Indians living off-reserve is in fact projected to decline.¹⁶ This could mean that the on reserve population could grow to 75% of the Registered Indian population by 2021.

Also, many First Nation citizens currently living off reserve are not, as is sometimes stated, "voting with their feet". Instead, they have left to pursue secondary or post-secondary education, are on waiting lists for houses in their communities, or are looking for new employment opportunities. Many of these people return when they can. INAC research indicates that between 1996 and 2001, there was a net migration back to reserves from both rural and urban areas. Between 1996 and 2001, reserves gained 10,700 citizens (3,105 from urban areas and 7,665 from rural areas). Migration to reserves represented 67% of the net First Nations migration flow of 16,100.

Finally, under the Supreme Court's *Corbiere* decision, the reality of the continuing connection between First Nation citizens and their communities is confirmed. Any changes to policies designed "to reflect the fact that the majority of Aboriginal Canadians live off-reserve" must take this into consideration.

Given this situation, it will be difficult to address the wide range of socio-economic issues affecting First Nation communities if money is transferred from communities to urban areas. Therefore, instead of simply reviewing the distribution of current funding, a commitment should be made to ensure that First Nation governments receive adequate funding to look after their citizens wherever they reside.

CONCLUSION

The sustainability and equitability of funding levels is not a technicality; it has significant impact on the ability of First Nation governments to provide adequate services to their citizens. It is also at the very heart of the gap in quality of life measures between First Nations and non-First Nations. First Nation citizens face some of the most difficult social and economic challenges in Canada. The National Chief of the AFN has challenged governments to address these gaps in quality of life as evidenced in the research of INAC and others. The AFN believes that a sustainable funding base is essential to create the conditions necessary for First Nations to develop economically and socially, thereby ending the cycle of poverty and shameful conditions that currently face First Nations across Canada.

¹⁵ INAC, *Report on Plans and Priorities, 2005-06*. pg. 12. http://www.tbs-sct.gc.ca/est-pre/20052006/INAC-AINC/pdf/INAC-AINCr56_e.pdf

¹⁶ INAC, Registered Indian Population Projections for Canada and Regions 2000-2021. Available at: http://www.ainc-inac.gc.ca/pr/sts/ipp_e.pdf