



## Capital Funding: Accessing Capital Funding Under 2021 CHRT 41 Through the FNCFS Stream

### Important Note to Readers

This information sheet provides general information on the process for accessing capital funding under 2021 CHRT 41 through the FNCFS Program stream. A separate information sheet about access to capital funding through the Jordan's Principle stream is available on our website. This information sheet is based on the Tribunal's decision in [2021 CHRT 41](#), which ordered Canada to fund the planning, purchase, and construction of capital assets for First Nations Child and Family Services and Jordan's Principle, and on the current version of Indigenous Services Canada's ("ISC") [Capital Guide](#). The Tribunal's orders will prevail in the event of a conflict with the *Capital Guide*.

The information contained in this information sheet is ***not legal advice***. Consult with your legal counsel to seek advice and guidance about your own needs and circumstances.

### General Information

**Can I access capital funding?** Capital funding is available for: (a) FNCFS agencies, societies, or other provincially/Yukon delegated child and family service providers; (b) First Nations on reserve, on Crown land, or in the Yukon that are recognized as Bands within the meaning of the *Indian Act*; and (c) First Nations that have concluded a self-government agreement but ***not*** exercised child and family services jurisdiction under Bill C-92.

**What is capital funding available for?** Capital funding is available for the purchase, renovation, and construction of capital assets and capital planning activities to support FNCFS program delivery.

**What type of projects are eligible?** Eligible projects can include capital (such as buildings and proportionally funded multi-purpose buildings) that supports FNCFS services or program delivery, vehicles not already eligible for actuals funding through 2018 CHRT 4, and housing for FNCFS personnel where no

suitable accommodations are available.

**What about housing?** Capital funding is available for housing for staff accommodation but not for building or buying family homes.

**Do capital assets need to be linked to FNCFS Program services or activities to get funding?** Yes.

**Can off-reserve assets be purchased or constructed under the FNCFS Program stream?** Yes. You can purchase or construct off-reserve property where there is no suitable property available on reserve for construction, or where off-reserve construction is more accessible for First Nations children, youth, and families ordinarily resident on reserve and in Yukon to receive services.

**What project costs can be funded?** Eligible costs include capital needs assessments; feasibility studies; environmental assessments; geotechnical assessments; land assessments; some technical studies; design costs; purchase, construction, or renovation of assets; land purchase; some initial costs such as furniture, equipment, IT, lot servicing, and site upgrades; and professional fees. Refer to the *Capital Guide*.

**I am an FNCFS Agency. Can I access capital funding for straightforward building repairs?** No. As an FNCFS Agency, you have access to building repairs at actuals under [2018 CHRT 4](#).

**I am a First Nation. Can I access capital funding for straightforward building repairs?** Yes. Funding could be available.

**What if my project is straightforward?** ISC will process straightforward funding requests, such as vehicle purchases or minor repairs like window replacements, through other processes (such as Jordan's Principle or actuals under 2018 CHRT 4 (e.g., building repairs for agencies) where relevant)) and not through the capital funding process. Straightforward capital requests may not need to go through every phase in the process. Right now, the meaning of a "straightforward" project is not totally clear.

**What is the difference between a straightforward request and**

**a complex request?** The difference between these two is not totally clear-cut. The capital process is still developing. But “straightforward” projects such as vehicle purchases and some minor building repairs should not be going through the multi-phased capital process.

**What about urgent capital requests?** Right now, there is no mechanism in place to deal with urgent capital requests. Let ISC know if your capital needs are urgent. ISC should be working with funding requestors throughout the capital request to ensure that eligible requests receive funding.

**What happens if my request is denied?** If your request is partially or fully denied at any stage, ISC must explain why it was denied and give you information about the appeals process. Currently, you can appeal to the Jordan’s Principle Appeals Secretariat. In general, you may want to seek advice from legal counsel.

## Capital Funding Request: Process

**What does the process look like?** A capital funding request has five phases: (a) pre-capital needs assessment, feasibility, and planning; (b) design; (c) construction; (d) completion; and (e) ongoing operations. ISC calls this the “capital project life cycle”.

**How do I get funding at each phase?** The [Capital Funding Request form](#) has to be filled out at each phase. That form has to be submitted to ISC at [chrt41-tcdp41@sac-isc.gc.ca](mailto:chrt41-tcdp41@sac-isc.gc.ca). Be prepared to submit a needs assessment, a feasibility study, a design plan, an environmental impact report, geotechnical investigations, and more through different professionals that you retain for your capital project. If you don’t already have these, you can ask for funding to complete them. Expect to provide increasingly precise “capital costs estimates” with professionals you retain as you go through the different design stages of your capital project. Seek advice about these estimates.

**How long does ISC have to make a decision at each phase?** ISC has to make a funding decision at each phase within 30 business days, unless there are exceptional circumstances. If ISC needs more than 30 business days, it has to advise the First Nation or FNCFS Agency about this in writing and explain why it needs more time. Whether a project is complex or not will affect ISC’s ability to meet the 30-business day timeline. Complexity is based on different factors set out in the *Capital Guide*.

**What about projects that are underway?** Funding is available for projects that are underway, as required by 2021 CHRT 41.

**Will ISC provide support throughout the capital funding request process?** Yes. ISC officials should be supporting funding requestors through the funding request process and the capital project phases.

**Who can I contact for more information?** You can contact the 2021 CHRT 41 Intake Desk at [chrt41-tcdp41@sac-isc.gc.ca](mailto:chrt41-tcdp41@sac-isc.gc.ca) or the regional offices through [these links](#).

### A. Pre-Capital Needs Assessment, Feasibility and Planning Phase

**Capital needs assessment:** The capital needs assessment phase involves confirming the type of assets needed to deliver services in your community. You might not always need to complete this stage (for example, if you are looking to renovate or replace a building for FNCFS Program delivery, your community’s needs might already be known). In general, capital needs assessments will establish: what programming and services are currently offered in your community; what staffing is needed to deliver those programs/services; what the estimated capital needs are for these current programs/services; and whether capital is available to the First Nation or FNCFS agency and the condition or state of any existing assets. ISC will look for a Class “D” capital cost estimate. The professionals you retain to develop your capital funding request will advise on this.

**Feasibility study:** In general, a feasibility study is necessary before entering the design phase. It provides a description of your project and its rationale. A feasibility study looks at all the options that you have to meet your capital needs. It confirms land requirements and looks at site issues and lot servicing. It considers whether an option is cost-effective and meets ISC’s program funding requirements. It also sets out the planning information that is necessary to move the project forward. Importantly, a feasibility study will recommend a “preferred option” or approach to take and justify it. This should be the best strategy for moving ahead with the capital project and providing the greatest benefit to the community. ISC wants a Class “C” capital cost estimate and a Class “D” operations and maintenance cost estimate. Seek advice from the professionals you retain about these.

### B. Design Phase

In this phase, you will need to engage a professional firm to develop a project design plan. Your design plan will set out your preferred solution for meeting the FNCFS service need and put forward final design drawings. Land encumbrance checks, rights

of ways, needed permits, and environmental reports and assessments should be dealt with. The design plan will need to consider things such as: lot servicing, access to services, and supporting infrastructure (water, wastewater, internet, electricity, roads, etc.). This will involve working with construction documents. Ultimately, the design plan is a key element of the project. It will allow ISC to assess whether a capital project is “ready to proceed”. The design plan has to be approved and certified by a licensed architect or professional engineer. If ISC confirms that your project is ready to proceed, you will have to begin a tendering process for construction and adhere to relevant tendering policies and practices. ISC wants a Class “A” total project cost estimate (pre-tender). Seek advice from the professionals you retain.

### C. Construction Phase

A contract will be awarded to a construction company. ISC will look for a Class “A” total project cost estimate (post-tender). Seek advice from the professionals you retain. Capital funding will flow. Construction will begin.

### D. Completion Phase

Relevant professionals will sign the certificate of project completion and the project completion report. At this point, ISC will flow the final capital construction funds.

### E. Ongoing Operations

Currently, ongoing operations and maintenances costs can be funded annually through the capital funding process under 2021 CHRT 41. Review the Capital Guide to determine what costs are eligible. Keep in mind that if you are accessing operations and maintenance funds through other sources (such as actuals under 2018 CHRT 4), then you will need to account for those funds when seeking funding through the capital process.

## Additional Information

**How long do I have to submit reimbursement claims after each phase?** Reimbursement claims for costs incurred in one fiscal year can be submitted until September 30th of the following fiscal year. If you need more time, advise ISC ASAP about your need for additional time. Provide a justification for needing that additional time. If you are looking for reimbursement for a project that was underway as of August 26, 2021, contact ISC ASAP about this.