

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA
and ASSEMBLY OF FIRST NATIONS**

Complainants

and

CANADIAN HUMAN RIGHTS COMMISSION

Commission

and

**ATTORNEY GENERAL OF CANADA
(representing the Minister of Indian and Northern Affairs)**

Respondent

and

**CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION**

Interested Parties

AFFIDAVIT OF LORRI WARNER

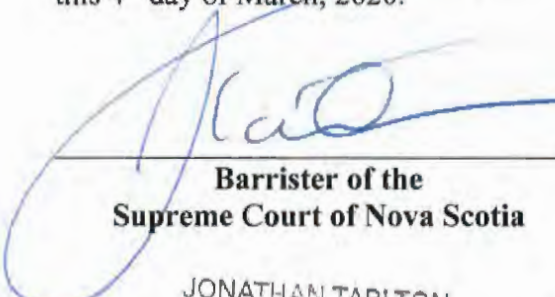
I, Lorri Warner, of the City of Halifax, in the Province of Nova Scotia, **AFFIRM THAT:**

1. I am employed as a legal assistant in the Atlantic Regional Office of the Department of Justice Canada. In the ordinary course of my duties, I assist counsel at the Atlantic Regional Office of the Department of Justice Canada in their litigation practice. I assist Jonathan Tarlton, Kelly Peck and Patricia MacPhee who have carriage of this matter on behalf of the Attorney General of Canada, and as such, I have knowledge of the matters deposed to within. Where my statements are based on information and belief, I have so stated.
2. Attached as **Exhibit “1”** is the Social Programs National Manual 2017-2018 which is available at the following link:
<https://www.sac-isc.gc.ca/eng/1484941779222/1533304597853#sec5> .
3. Attached as **Exhibit “2A”** is the National Recipient Guide (2018/2019 version) which I am advised has been shared with the Parties.

4. Attached as **Exhibit “2B”** is the National Recipient Guide (January 2020 version) which I am advised was shared with the Consultation Committee on Child Welfare (“CCCW”) on January 14, 2020.
5. Attached as **Exhibit “3”** is the 2018/2019 Ontario Region Recipient Guide for Band Representative Services, which I am advised has been shared with the Parties.
6. Attached as **Exhibit “4”** is a copy of the January 2020 draft Prevention Directive, which I am advised was shared with the CCCW on January 14, 2020.
7. Attached as **Exhibit “4A”** is a copy of the draft Directive on Prevention input tracker including comments received from Dr. Blackstock November 11, 2019, which I am advised was shared with the CCCW on January 14, 2020.
8. Attached as **Exhibit “5”** is a copy of the Community Well-Being and Jurisdiction Initiatives Guidelines which I am advised was shared with the Parties on August 18, 2018.
9. Attached as **Exhibit “6A”** is a copy of the First Nations Child and Family Services Program Terms and Conditions pre-December 13, 2018.
10. Attached as **Exhibit “6B”** is the First Nations Child and Family Services Program Terms and Conditions post-December 13, 2018, which I am advised was shared with the CCCW on January 18, 2019.
11. Attached as **Exhibit “6C”** is a copy of “Canada’s Response to outstanding comments/concerns received from the Consultation Committee on Child Welfare regarding the FNCFS Terms and Conditions, which I am advised was shared with the CCCW on January 18, 2019.
12. Attached as **Exhibit “7A”** is the Draft Capital Directive Document which I am advised was shared with the CCCW on January 14, 2020.
13. Attached as **Exhibit “7B”** is the Crosswalk Document including feedback from the CCCW regarding the Draft Capital Directive. I am advised this document was shared with the CCCW on January 14, 2020.

14. Attached as **Exhibit “8”** are copies of CCCW Record of Decisions for the following dates:
- Final – October 23, 2018
 - Draft - April 2, 2019
 - Final - June 17, 2019
 - Draft - September 9, 2019
15. Attached as **Exhibit “9”** is a copy of the Government of Canada’s News Release: “Government of Canada moving forward with departmental changes needed to renew the relationship with Indigenous peoples” which is available at the following link: https://www.canada.ca/en/indigenous-services-canada/news/2017/12/government_of_canadamovingforwardwithdepartmentalchangesneededto.html.
16. Attached as **Exhibit “10”** is a copy of the website located at the following link: <https://www.rcaanc-cirnac.gc.ca/eng/1499711968320/1529105436687>
17. Attached as **Exhibit “11”** is the Minister of Indigenous Services Mandate Letter dated December 13, 2019, which is available at the following link: <https://pm.gc.ca/en/mandate-letters/2019/12/13/minister-indigenous-services-mandate-letter>
18. Attached as **Exhibit “12”** is the Government of Canada’s News Release - “Bill C-92: An Act respecting First Nations, Inuit and Métis children, youth and families receives Royal Assent” which is available at the following link: <https://www.canada.ca/en/indigenous-services-canada/news/2019/06/an-act-respecting-first-nations-inuit-and-metis-children-youth-and-families-receives-royal-assent.html>.

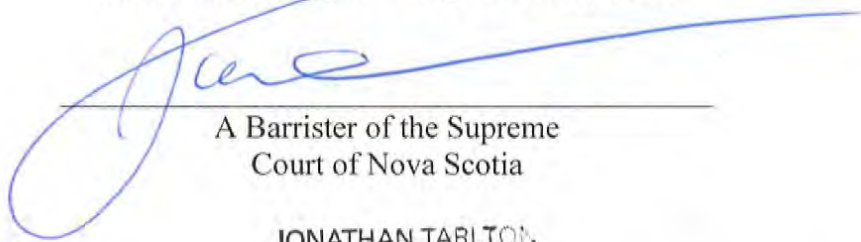
AFFIRMED before me at the City of
Halifax in the Province of Nova Scotia
this 4th day of March, 2020.


Barrister of the
Supreme Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia


Lorri Warner

This is **Exhibit "1"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON,
A Barrister of the Supreme
Court of Nova Scotia



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Social Programs National Manual 2017-2018

For any additional information or if you have any questions about the *Social Programs National Manual* for the four Social Programs funded by Indigenous and Northern Affairs Canada (INAC), please contact your [INAC \(Indigenous and Northern Affairs Canada\) Regional Office](#).

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Chapter 1: Overview

1.0 Definitions

1.1 For the purposes of this Manual, the definitions in the *Indian Act* and the Funding Agreement apply.

1.2 Additional general definitions necessary to interpret this Manual include:

1.2.1 Administrator – the person who has been delegated responsibility by a Funding Recipient to carry out functions on behalf of the Funding Recipient.

1.2.2 Age of majority – The age at which a person is granted the rights and responsibilities of an adult in accordance with provincial or territorial legislation.

1.2.3 Authorities – Indigenous and Northern Affairs Canada (INAC) funding and program authorities received from Treasury Board.

1.2.4 Child (Children) – A person under the Age of Majority in the relevant province or territory.

1.2.5 Client – A person who ultimately receives the benefit of programs or services funded by INAC (Indigenous and Northern Affairs Canada).

1.2.6 Funding Agreement – A written agreement or documentation between the Government of Canada and a Funding Recipient setting out the obligations of both with respect to one or more grants or contributions.

1.2.7 Funding Recipient – An individual or entity that either has been authorized to receive a grant or contribution or that has received that grant or contribution.

1.2.8 Indigenous and Northern Affairs Canada (INAC) – Indigenous and Northern Affairs Canada (INAC) is one of 34 federal government departments responsible for meeting the Government of Canada's obligations and commitments to First Nations, Inuit and Métis, and for fulfilling the federal government's constitutional responsibilities in the North. The legal name remains the Department of Indian Affairs and Northern Development (DIAND).

1.2.9 Manual – The Social Programs National Manual 2017-2018

1.2.10 Specified Communities – Members of non-reserve communities or land-less Indian Bands that are eligible to receive Social programs and services (refer to Appendix A).

1.2.11 Social Programs – The collective term for the following individual programs: Income Assistance, Assisted Living, Family Violence Prevention Program, and First Nation Child and Family Services. Each of which operate within their own approved terms and conditions.

1.2.12 Technical Interpretation Bulletins – A document whereby INAC (Indigenous and Northern Affairs Canada) may provide interim program direction and clarifications on technical issues identified by Funding Recipients and INAC (Indigenous and Northern Affairs Canada) staff.

2.0 General Statement

2.1 This Social Programs National Manual replaces the Social Programs National Manual published in 2012.

3.0 Purpose

3.1 This Manual provides direction for the delivery of the Social Programs funded by INAC (Indigenous and Northern Affairs Canada).

4.0 Scope

4.1 This Manual applies to all Funding Recipients that have entered into Funding Agreements with INAC (Indigenous and Northern Affairs Canada) for the delivery of Social Programs.

4.2 This Manual is to be read in conjunction with:

- The Funding Agreement signed by a Funding Recipient;
- The applicable INAC (Indigenous and Northern Affairs Canada) program Terms and Conditions;
- INAC (Indigenous and Northern Affairs Canada) policies and procedures for managing transfer payments;
- Applicable provincial/territorial legislation;
- INAC (Indigenous and Northern Affairs Canada) Regional Office program manuals or guidelines;
- Technical Bulletins; and
- Any other INAC (Indigenous and Northern Affairs Canada) approved documentation.

5.0 Eligible Expenditures and Amounts

5.1 Eligible expenditures are limited to INAC (Indigenous and Northern Affairs Canada)'s Authorities and departmental mandate.

5.2 Administrators are required to exercise due diligence when approving expenditures, ensuring that they are reasonable and appropriate.

6.0 Roles and Responsibilities

6.1 Funding Recipients have a responsibility to:

- deliver programs in accordance with the terms and conditions set out in the Funding Agreement;
- ensure that internal controls are in place to manage funding;
- ensure that program Administrators are properly trained and possess the skills and knowledge to deliver the programs;
- ensure that reporting requirements are met and reports are submitted to INAC (Indigenous and Northern Affairs Canada) in an accurate and timely manner;
- cooperate with INAC (Indigenous and Northern Affairs Canada) staff during compliance reviews;
- provide access to services in both English and French where there is significant demand and Part IV of the *Official Languages Act* is applicable; and

- develop and implement by-laws, policies and procedures to protect personal information, collected in the course of complying with the program delivery requirements, from unauthorized access, use, or disclosure.

All functions performed by Administrators are performed on behalf of Funding Recipients. Funding Recipients are responsible for ensuring that Administrators perform these functions. Failure to ensure that an Administrator performs a function may result in a finding by INAC (Indigenous and Northern Affairs Canada) that a Funding Recipient is in default under its Funding Agreement.

6.2 INAC (Indigenous and Northern Affairs Canada) has a responsibility to:

- provide funding to Funding Recipients as authorized by approved policy and program Authorities;
- lead the development of policy and provide policy clarification to Funding Recipients; and
- provide oversight to ensure programs operate according to Authorities and Canada's financial management requirements, by ensuring that reporting and accountability requirements are met.

7.0 Social Programs Performance Information Profile

7.1. The Social Programs Performance Information Profile sets out the expected outcomes from the various Social Programs.

The profile identifies program data necessary to assess to what extent these outcomes are being achieved. The program data, collected through reporting, must be accurate to support effective program management.

8.0 Funding Recipient Reporting and Information Management

8.1 The Reporting Guide is the single location for recipients to obtain all the reporting requirements for the financial and program performance aspects of their Funding Agreement with INAC (Indigenous and Northern Affairs Canada).

8.2 All recipient reporting requirements are subject to compliance review activities to determine the accuracy of the information provided to INAC (Indigenous and Northern Affairs Canada).

9.0 Stacking Provisions

- The maximum funding that will be provided to a Funding Recipient by INAC (Indigenous and Northern Affairs Canada) are 100 percent of the eligible costs associated with a particular program (activity, initiative or project) to be funded.
- A Funding Recipient is required to declare any and all sources of funding for the program that are expected to be received or that are received, including all funding from the Government of Canada and from provincial, territorial, and municipal

governments. Annual financial reporting must show all sources of funding received.

- Provision for repayment will be made when INAC (Indigenous and Northern Affairs Canada)'s contribution is in excess of \$100,000 and when funding from all sources exceeds eligible expenditures. Funding Recipients must provide INAC (Indigenous and Northern Affairs Canada) with information showing the amount to be repaid and the basis for calculating that amount. The reimbursement should be proportionate to INAC (Indigenous and Northern Affairs Canada)'s contribution, expressed as a percentage of the total funding obtained by the Funding Recipient from all government sources for that program.

10.0 Federal-Provincial and Territorial Agreements

INAC (Indigenous and Northern Affairs Canada) has entered into agreements with the provinces. The obligations set out in the agreements are to be read first and take precedence over the delivery requirements and standards of the social programs, as explained in this Manual.

- In Ontario, the *Memorandum of Agreement Respecting Welfare Programs for Indians* guides INAC (Indigenous and Northern Affairs Canada)'s reimbursement to the Government of Ontario for social services cost-shared in accordance with the agreement. This agreement (referred to informally as the "1965 Agreement" or the 1965 "Indian Welfare Services

Agreement"), supports cost-sharing of four social programs delivered in First Nation communities under the overall management oversight and responsibility of the Government of Ontario: Ontario Works (Income Assistance), Children's Aid Societies and approved prevention programs (Child and Family Services), Child Care (*Day Nurseries Act*), and Homemakers Services (Assisted Living)

- In Alberta, the Arrangement for the Funding and Administration of Social Services (referred to informally as the "1991 Alberta Reform Agreement") guides INAC (Indigenous and Northern Affairs Canada) reimbursements to Alberta for social services that the Government of Alberta delivers to First Nations individuals who are ordinarily resident on reserve in the Province of Alberta.
- Other bilateral or tripartite agreements or memoranda of understanding may be developed in collaboration with, and must first be approved by the INAC (Indigenous and Northern Affairs Canada) Social Programs branch at INAC (Indigenous and Northern Affairs Canada) Headquarters.

11.0 Program Management and Monitoring

- Program compliance reviews, conducted by INAC (Indigenous and Northern Affairs Canada), are required in order to provide assurances to INAC (Indigenous and Northern Affairs Canada) that program activities and expenditures comply with the program terms and conditions.

- Compliance reviews will be carried out by one or more authorized individuals including, but not restricted to, INAC (Indigenous and Northern Affairs Canada) staff or external contractors engaged by INAC (Indigenous and Northern Affairs Canada).
- Funding Recipients will be notified in advance when a compliance review is required.
- A Funding Recipient is required to provide supporting documentation, including books, records, source documentation, correspondence and any other information which supports an expenditure as an eligible activity and eligible amount which was incurred on behalf of an eligible individual or Client.
- A Funding Recipient is required to provide adequate working space, for onsite reviews including access to a washroom, table or desk, chair, electrical plug-in for a laptop, and adequate lighting.
- Persons who have knowledge of the program expenditures, make decisions or approve program expenditures as well as other persons who are responsible for program management and delivery, are required to provide information, attend interviews and discussions during the compliance reviews to ensure that program management issues are assessed appropriately and in a timely manner.

Chapter 2: On Reserve Income

Assistance Program

1.0 Program Description and Objective

1.1. The on reserve Income Assistance Program provides funds to individuals (known as Clients) and families (Clients and their dependants) who are ordinarily resident on reserve, as a last resort where all other means of generating income to cover basic needs have been exhausted. Funds support:

- the basic and special needs of Clients and their Dependants on reserves; and
- access to services to help Clients transition to and remain in the workforce.

The Income Assistance Program has four components which provide the following:

- funds to meet basic needs for food, clothing and shelter (utilities and rent);
- special needs allowances for goods and services essential to the physical or social well-being of a Client;
- employment and pre-employment supports; and
- funding for service delivery, which is funding provided by INAC (Indigenous and Northern Affairs Canada) to Funding Recipients to enable them to administer the Income Assistance Program.

1.2. The expected results of this program are that:

- men, women and Children have access to supports to meet their basic and special needs;
- men and women have access to supports that help them to transition to and remain in the workforce; and
- men and women are employable and able to become or remain attached to the workforce.

2.0 Eligible Expenditures

2.1. In accordance with Program Authorities, Funding Recipients are provided with funding to cover specific costs related to the following items to support Income Assistance Clients and their dependants.

2.1.1. Eligible expenditures for basic and special needs are determined by reference to the provincial or territorial standards of the province or territory in which the reserve is located and must be equivalent to those of the province or territory. These eligible expenditures may include funding for:

- food allowance including special diets;
- clothing allowance including Children's winter and school clothing;
- shelter allowance (rent and utilities), in accordance with the *National Directive on the Administration of Shelter Allowance to Income Assistance Client's On-Reserve*;
- personal incidentals;
- essential household items;

- transportation (non-medical) and moving costs; and
- funeral and burial costs (not to exceed \$ 3,500.00) and, when necessary, costs to repatriate the remains of a deceased person (not to exceed \$ 6,000.00) by rail, air or vehicle transport.

Note: Medical or health services are to be provided by Health Canada (i.e. (that is) non-insured health benefits) or by the province or territory in which a reserve is located.

2.1.2. Employment and pre-employment eligible expenditures are determined by reference to the provincial or territorial standards of the province or territory in which the reserve is located. These eligible expenditures may include funding for:

- Child care and accommodation costs;
- transportation and equipment costs;
- employment-related relocation costs;
- training; and
- career and job-seeking skills counselling.

2.1.3. Employment and pre-employment financial assistance eligible expenditures are determined by reference to the provincial or territorial standards of the province or territory in which the reserve is located and must be equivalent to those of the province or territory. These eligible costs may include funding for:

- training allowance;

- wage subsidy associated with work experience; and
- transfers to employers, other institutions and governments for training and employment services (e.g. (for example), Work Opportunity Program, Aboriginal Social Assistance Recipient Employment Training, Job Corps).

2.1.4. Service delivery and administrative costs directly attributable to program and service delivery are determined by reference to the provincial or territorial standards of the province or territory in which the reserve is located. These eligible costs may include funding for:

- salaries, wages and benefits; travel, transportation, accommodation; training and professional development, office supplies; instructional and information materials; office equipment; telecommunications; computer systems; printing and professional services;
- data collection and management activities required for program monitoring, planning, reporting and evaluation; maintenance and upgrading of systems; and
- development and implementation of case management systems including structured Client assessment, referral, job placement, re-assessment and counseling, training and professional support for Administrators and case managers; and funding to support the development of operational policy guidelines and projects to encourage local integration or aggregation of services (e.g. (for

example) management control framework, aggregation models, income support and labour market programs) for more effective delivery and administration of the programs.

3.0 Eligibility Requirements for Clients

3.1. For purposes of confirming the eligibility for Income Assistance benefits, the Client must demonstrate that he or she:

- is ordinarily resident on reserve;
- is eligible for basic or special financial assistance (as defined by the province or territory of residence, and confirmed by an assessment covering employability, family composition and age, and financial resources available to the household); and
- has no other source of funding to meet basic needs and therefore, requires income support under the Income Support Program.

3.1.1. For the purpose of providing the Income Assistance Program and services, "ordinarily resident" means that a Client:

- lives on reserve and does not maintain a primary residence off reserve; or
- is off reserve for the primary purpose of obtaining required medical care or social service support because there is no reasonably comparable service available on reserve, and lived on reserve immediately prior to

receiving the medical care or social service support.

Note: For the Income Assistance Program, "reserve" is as defined in the *Indian Act*; includes the Yukon Territory; and excludes lands which have been designated for commercial purposes (for First Nations operating under the *Indian Act*) or leased for commercial purposes (for First Nations operating under the *First Nations Land Management Act*).

A student who is registered and attending a secondary or post-secondary education or training program and is receiving education funding from the federal government, a Band or Aboriginal organization continues to be considered ordinarily resident on reserve if he or she:

- maintains a residence on reserve; or
- is a dependant of a family that maintains a primary residence on reserve;
- returns to live on reserve with parents, guardians, caregivers or maintainers during the year, even if they live elsewhere while attending school or working at a temporary job; or
- meets the student eligibility requirements in the reference province or territory.

Note: A student receiving post-secondary student support program funding can only be considered eligible

for Income Assistance under exceptional circumstances as determined by reference to the provincial or territorial standards of the province or territory in which the reserve (of which the student is a member) is located.

The residence of a Child who comes into the care of a mandated Child welfare authority is derived from the residency of the Child's parent or guardian at the time the Child is taken into care.

In the case of Children, Clients must be formally assessed as requiring such services, but only in cases where the responsibility for the funding and provision of such services does not lie with other agencies or programs. Children out of parental home are eligible to be funded as determined by reference to the provincial or territorial standards of the province or territory in which the reserve (where the child lives) is located

3.2. Clients must also meet the qualifying requirements of the reference province or territory of residence, including an assessment covering all of the following:

- financial need (income and assets);
- employability;
- family composition and age; and
- financial resources available to the Client's household.

3.3. Clients must confirm that they have not applied and do not receive any Income Assistance from any other source.

3.4. Clients must provide all information necessary to confirm that the eligibility requirements have been met and that the information provided in their application is accurate.

3.5. Administrators must take all necessary steps and precautions to verify information and require supporting documentation to ensure that eligible services are only provided to eligible Clients.

4.0 Child out of Parental Home

4.1. Eligible expenditures pertaining to a Child out of the parental home, for purposes of Income Assistance, are according to the provincial or territorial guidelines and do not include a Child taken into care under Child and Family Services.

4.2. Eligible expenditures pertaining to a Child out of the parental home should not result in a duplication of payments or services (e.g. (for example) the Child is counted for Income Assistance benefits while receiving supports through Child and Family Services).

4.3. Once a Child receives supports as a Child out of the parental home through Child and Family Services, he/she ceases to qualify for supports through the Income Assistance Program.

5.0 Requirement to Maintain Files and Records

5.1. Funding decisions require that the Administrator collect and keep information that supports the eligibility of the expenditures

and the management of an applicant's and a Client's circumstances. ¹

6.0 Minimum Required Documentation for Funding Recipients

Notwithstanding the minimum documentation requirements identified in this section, there may be additional INAC (Indigenous and Northern Affairs Canada), provincial or territorial requirements as per the Recipient funding agreement or written notification to the Recipient. Funding Recipients shall ensure that all the documentation requirements are met.

6.1. Guiding Principles

- Documentation to support a requirement for Income Assistance support must be kept by the Funding Recipient in the Client case file.
- Eligibility is an ongoing requirement, and files must be maintained and regularly updated to confirm a Client's ongoing eligibility to receive Income Assistance.

Note: When, by exception, documentation related to a requirement is not available, a record of ongoing efforts to obtain the documentation or an explanation of why it cannot be obtained must always be clearly outlined in the file. The note should include the date, person spoken to and details of the conversation to support the exception.

6.2. Application Form

The application form must be completed in full by the potential Income Assistance Client in full and contain:

- The name of each person in the family;
- The date of birth (DOB) for each person in the family (i.e. that is merely listing ages is not acceptable);
- Signatures of the Client and dependent spouse, dated as per INAC (Indigenous and Northern Affairs Canada)'s formats and procedures;
- A declaration, signed and dated by the Client and dependent spouse, that the information provided is accurate to the best of the Client's knowledge;
- An authorization to release information to verify the eligibility of the Client signed by both the Client and dependent spouse; and
- A valid Social Insurance Number (SIN) for the Client and dependent spouse (as required by the reference province or territory).

Note: If the Client has not provided the SIN (ocial Insurance Number) and requires additional time to obtain it, the file documentation must demonstrate that the Client is actively pursuing the missing SIN (ocial Insurance Number). After 60 days, the Client is considered ineligible. Exceptions beyond the 60 days should be evaluated on a case by case basis to ensure that the Client is actively seeking a SIN but that

exceptional and unique circumstances have delayed the receipt of it.

6.3. Identity Verification

6.3.1. Client and Dependent Spouse

A copy of one piece of valid photo identification issued by the government (federal, provincial or territorial), or a signed attestation by the Administrator stating that he or she has verified the identity of the potential Client and dependent spouse, must be placed on the case file by the Administrator.

6.3.2. Any Other Dependents

A copy of one identification document, or a signed attestation by the Administrator stating he or she has verified the dependant's identification, must be placed on the case file by the Administrator for all dependants.

The following identification documents may be presented as acceptable proof of identity for each dependant:

- one piece of valid photo identification issued by the government (federal, provincial or territorial);
- certificate of live birth;
- school records;
- report cards;
- school identification (ID);
- Canada Child Benefit;
- tax assessment;
- paystub;

- verification of the family composition from the Indian Registry Administrator or the Nation's Band Membership Department; and
- Status Card.

6.4. Financial Needs Assessment

A clear demonstration of financial needs is required on file by the Administrator and must include:

- all of the supporting documentation for the Client and his or her dependent spouse at the time of approval of benefits
- completed and signed budget and decision forms as per INAC (Indigenous and Northern Affairs Canada) procedures.
- documentation showing amounts received from Employment Insurance (EI) or demonstrating that the Client and dependent spouse are not eligible for benefits;
- documentation showing amounts received for Guaranteed Income Supplement (GIS), Old Age Security (OAS) or Canada Pension Plan (CPP) or demonstrating that the Client or dependent spouse is not eligible for benefits (when it appears that the Client or dependent spouse could be eligible for one or more of these benefits);
- current bank account statements (if Client or dependent spouse has a bank account).
- current and complete income tax assessment that shows total income and deductions (if Client or dependent spouse has filed a tax return); and

- the application for maintenance enforcement as per INAC (Indigenous and Northern Affairs Canada) procedures

6.5. Primary Residence

Documentation is required to verify that the Client is ordinarily resident on reserve prior to issuing benefits.

When no documentation can be obtained, a Band Council Resolution (BCR) verifying the Client's residency on reserve may be accepted by INAC (Indigenous and Northern Affairs Canada). However, documentation must be on file indicating that other methods of verifying residency have been exhausted.

6.6. Employability and Education

The case file must identify the highest educational attainment of the Client, as well as any trades training or other special skills that the Client possesses.

6.7. Hardship or Emergency Supports

Hardship or emergency supports may be available as an interim measure in accordance with provincial or territorial requirements. Documentation on file must be in accordance with the provincial or territorial requirements in order to demonstrate Client eligibility for hardship or emergency supports.

Chapter 3: Assisted Living Program

1.0 Program Description and Objective

1.1. The Assisted Living Program is an income dependent residency-based program that provides funding for non-medical social support services to seniors, adults with chronic illness, and Children and adults with disabilities (mental and physical) so that they can maintain functional independence and greater self-reliance.

1.2. The objective of the Assisted Living Program is that low-income individuals are helped to maintain their independence for as long as possible through in-home, group home and institutional care supports.

1.3. There are three components available through the Assisted Living Program.

1.3.1. All three program components respond to three distinct and progressively intensive care needs:

- in-home care (e.g. (for example) meal programs, housekeeping);
- adult foster care ² (e.g. (for example) care in a group home setting); and
- institutional care (e.g. (for example) care provided in provincially licensed residential facilities).

1.3.2. In addition, funding is available for the Disabilities Initiative, which provides proposal-based funding for projects

to improve the coordination and accessibility of existing disability programs and community services to persons living on reserve.

1.4. INAC (Indigenous and Northern Affairs Canada) funds the Assisted Living Program supports and services for Clients that are aligned with the eligibility criteria and rates established by the reference province or territory. Assisted Living funding can be used for eligible service delivery expenditures.

Note: Eligible program expenditures are outlined in sections 4.0 and 5.0 of this chapter.

2.0 Eligible Funding Recipients

2.1. Eligible Funding Recipients for in-home care, adult foster care and institutional care are:

- Band Councils of First Nations bands recognized by the Minister of Indian Affairs and Northern Development;
- Tribal Councils;
- Provinces;
- Yukon Territory;
- Aboriginal communities and organizations;
- political and treaty organizations;
- municipal governments or agencies;
- private businesses, organizations or agencies; and
- volunteer, not-for-profit, and non-governmental organizations.

2.1.1. In-Home Care

Funding Recipients must have:

- operational processes and procedures for the delivery of services that are consistent with this Manual and with programs, standards and guidelines of the reference province or territory;
- established management and accountability processes and procedures for program funding;
- documentation to confirm that in-home care services, provided to a Client, correspond to or make up part of a Client's care plan based on assessed needs; and
- supporting documentation relating to past program delivery (this provision does not apply to a new Funding Recipient).

2.1.2. Adult Foster Care and Institutional Care

Funding Recipients must:

- operate according to the licensing and accreditation guidelines applicable to the facility type of the reference province or territory;
- maintain up-to-date documentation confirming that adult foster care or institutional care services, provided to a Client, corresponds to or makes up part of a Client's care plan based on assessed needs; and

- ensure that the care services for which the care facility is invoicing do not exceed Types I and II care as defined in Health Canada's (1973) Federal Classification System for Institutional Care or equivalent.

2.2. Funding Recipients for the Disabilities Initiative are:

- Band Councils of First Nations bands recognized by the Minister of Indian Affairs and Northern Development;
- Tribal Councils;
- Aboriginal communities and organizations;
- political and treaty organizations;
- volunteer, not-for-profit, or non-governmental organizations; and
- educational institutions.

3.0 Clients

3.1. In-home care, adult foster care and institutional care Clients must be:

- ordinarily resident on reserve;
- formally assessed by a designated social service or health professional using the care assessment criteria recognized by INAC (Indigenous and Northern Affairs Canada) as requiring one or more eligible supports;
- unable to pay for the assessed services themselves (in accordance with the requirements outlined in section 6.3.4 of this chapter); and

- in the case of in-home care, there are no individuals living in the household or there are no family members living within the community who can provide the services.

3.2. Ordinarily Resident On Reserve for the Assisted Living Program

"Ordinarily resident on reserve" means that a Client has, at the time of applying for a care assessment, demonstrated that he or she:

- lives on reserve and does not maintain a primary residence off reserve; or,
- is off reserve primarily to obtain required medical care or social service support because there is no comparable service available on reserve, and lived on reserve immediately prior to receiving the medical care or social support.

Note: For the Assisted Living Program, "reserve" is: as defined in the *Indian Act*; includes the Yukon Territory; and excludes lands which have been designated for commercial purposes (for First Nations operating under the *Indian Act*) or leased for commercial purposes (for First Nations operating under the *First Nations Land Management Act*).

3.2.1. A student who is registered and attending a secondary or post-secondary institution or training program and who is in receipt of education funding from, the federal government,

a Band or Aboriginal organization continues to be considered ordinarily resident on reserve if he or she:

- maintains a residence on reserve; or
- is a dependent of a parent or legal guardian that maintains a primary residence on reserve; or
- returns to live on reserve with parents, guardians, caregivers or maintainers during the year, even if they live elsewhere while attending school or working at a temporary job.

3.2.2. Services provided to individuals residing off reserve may only be funded when:

- the individual meets the definition of "ordinarily resident on reserve" at the time of applying for a care assessment; and
- the service provided is in an institutional care or adult foster care facility that meets the eligibility requirements described in section 4.4.3 of this chapter.

Funding for in-home care services is not to be provided for individuals residing off reserve.

3.2.3. Residency status is determined at the time an individual applies for a care assessment and follows the Client until he or she no longer requires Assisted Living care.

Note: Individuals, who are ordinarily resident on reserve and relocate to another reserve to be admitted to an on reserve

institutional care facility, will be considered to be "ordinarily resident on reserve" and eligible to receive funding support from the reserve of origin for the Assisted Living Program services.

4.0 Eligible Expenditures

4.1. Guiding Principles

Where it is not clear whether or not a particular service would be eligible for funding under the Assisted Living Program, the following guiding principles should be considered:

- services are intended to be aligned with those provided by the reference province or territory for Clients subject to a financial needs test. This includes services for which a person with sufficient means would be expected to pay out-of-pocket. For example, the Assisted Living Program would fund attendant care (as an eligible item under in-home care) to the same extent as would the reference province or territory on the basis of an income test;
- the maximum amount payable to any Funding Recipient with respect to any Client is the actual costs of the eligible expenditures associated with that Client for in-home care, foster care and institutional care consistent with the reference provincial or territorial programming;
- administrators are required to verify and cross reference the Funding Recipient's information from other programs (e.g. (for example) income assistance) to the Client's application,

- to ensure that there is no duplication of supports and benefits, when considered as a whole;
- for Assisted Living in-home care, services should apply to care in the Client's home and community environment (e.g. (for example) housekeeping), but not care of the Client directly (e.g. (for example) nursing care);
- the amounts should always be reasonable in the circumstances in which the services are provided. Hourly rates may include incidental costs (e.g. (for example) transportation and supplies). In all cases, expenditures must be supported by documentation and information as listed in section 6.0 of this chapter; and
- Assisted Living Program funding (including service delivery funding) cannot be used for capital expenditures (i.e. (that is) for the construction of care facilities).

4.2. The in-home care component provides funding support for non-medical services. These services include:

- meal programs, meal planning and preparation;
- day programs;
- attendant services (this could include services such as accompanying an individual to an appointment or while shopping, but does not include care of the Client directly, e.g. (for example) bathing, dressing);
- short-term respite care for the caregiver (as defined by the reference province or territory);
- group care;

- laundry;
- ironing;
- mending;
- carrying water;
- chopping and/or carrying wood;
- home management which may include making beds, dusting, washing dishes, sweeping, wiping counter tops, vacuuming, taking out the garbage, scrubbing a bathroom or floor, washing walls or shampooing carpets;
- minor home maintenance (for example, fixing a door knob or attaching a railing along stairs); and
- non-medical transportation.

4.3. The adult foster care component provides funding support for supervision and care in a family-like setting to individuals unable to live on their own due to physical, cognitive or psychological limitations, who do not need continuous medical attention.

Before Client expenses in adult foster care can be reimbursed, Eligible Funding Recipients must verify that the adult foster home:

- charges provincial or territorial per diem rates; and
- operates according to the licensing or accreditation guidelines of the reference province or territory.

4.4. The institutional care component of the program provides funding support for individuals requiring Types I and II care in

institutions operating according to provincial or territorial laws and standards both on and off reserve.

4.4.1. Provinces and territories are responsible for licensing and monitoring facilities, providing funding for higher levels (i.e. (that is) Types III, IV and V) of institutional care on and off reserve and setting program rates and standards.

4.4.2. Co-Payment and User Fees

Clients residing in an institution are expected to pay the provincial or territorial government established co-insurance or user fee for care, maintenance, clothing and personal expenses to the extent that they are financially able to do so. This may require using or assigning income received from alternate income-support programs (e.g. (for example), Old Age Security, Guaranteed Income Supplement Canada Pension Plan, Employment Insurance, and personal income from all sources).

4.4.3. Eligibility Requirements for Institutional Care

Before actual expenses for institutional care services may be reimbursed, Eligible Funding Recipients must verify that the care facility:

- operates according to the licensing or accreditation guidelines of the reference province or territory; and
- the client care services for which the care facility is invoicing do not exceed Types I and II care.

Definitions of Type I and II: ³

Type I care is "residential care for persons requiring primarily

supervision and assistance with daily living activities and social and recreational services - ½ to 1 ½ hours therapeutic and personal care or supervision daily".

Type II care is "extended care for persons requiring availability of personal care on a 24-hour basis, under medical and nursing supervision - 1 ½ to 2 ½ hours care or supervision".

4.4.4. Eligible Institutional Care Expenditures:

- standard accommodation in accordance with the reference province's definition of institutional care;
- meals, including therapeutic diets;
- food;
- laundry;
- necessary emergency and routine treatment supplies;
- professional social services, as needed, in accordance with assessed client needs;
- programs for social and recreational activities;
- clothing;
- special diets;
- age allowance;
- personal living allowance; and
- guide dogs.

Note: Specialized medical and capital items are not eligible expenditures.

5.0 Service Delivery Eligible Expenses

5.1. Funding Recipients who deliver the Assisted Living Program receive resources to support the administration of the program.

5.2. Eligible expenditures to support the administration of the Assisted Living Program are:

- salaries, wages and benefits;
- travel;
Note: Travel outside of Canada is not an eligible expenditure unless it is pre-approved in writing by the Director General, Social Programs and Policy Branch (INAC (Indigenous and Northern Affairs Canada)).
- transportation;
- training for professional or paraprofessional Administrators and case workers;
- related office costs;
- activities related to collecting and managing data required for program management;
- monitoring, planning, reporting and evaluation;
- maintaining and upgrading program management systems;
- developing operational policy and related documents, and delivery options to encourage local integration, where possible, of education, health and social services needed to effectively deliver and administer the Assisted Living Program; and
- developing and implementing case management protocols, including the following:

- structured Client assessments;
- referrals;
- re-assessment and counselling;
- training; and
- professional support for Administrators and case managers.

6.0 Requirement to Maintain Files and Records

6.1. Funding decisions require that the Administrator collect and keep information that supports the eligibility of the expenditures and the management of a Client's circumstances. ⁴

In accordance with the record keeping requirements set out in the Funding Agreement, Administrators are required to keep information that is collected from all current and prospective Clients, whether or not they are eligible for services, including:

- completed applications;
- incomplete applications; and
- all supporting documentation provided during the application process.

In sections 6.2 to 6.3, the term "individual" refers to all Clients and prospective Clients.

6.2. The types of information that are used to assess and confirm the needs and eligibility of an individual and related expenditures are:

- application form(s) (refer to section 6.3.1 in this chapter);

- authorization forms used to confirm the individual's information;
- documentation confirming and supporting the verification of the identity of the individual and his or her dependent spouse;
- documentation verifying the residency of the individual (refer to section 6.3.2 in this chapter);
- documentation verifying the financial need of the individual and his or her dependants (refer to sections 6.3.4 to 6.3.6 in this chapter);
- all supporting documentation for program expenditures (receipts, invoices, cancelled cheques, log of care services, and formal assessment and care plan documenting the supports and services provided);
- for adult foster care and institutional care, documentation demonstrating that the care home or facility operates according to the licensing and/or accreditation guidelines of the reference province or territory (refer to section 6.3.9 in this chapter);
- the Funding Recipient's general ledger and supporting accounting records;
- working papers, lists, system reports and any other information necessary to complete each INAC (Indigenous and Northern Affairs Canada) reporting requirement; and
- pay lists used to create monthly Assisted Living benefit payments and cheques.

In addition, Administrators are required to verify and cross reference the Funding Recipient's information from other programs to the individual's application, to ensure that there is no duplication of supports and benefits, when considered as a whole. The types of information to consider include:

- schedule of salary and honoraria paid to elected officials and Band employees (including any individuals who are paid to provide services);
- income assistance pay lists used to create monthly Income Assistance benefit payments and cheques; and
- post-secondary education lists and nominal rolls.

6.3. Documentation for Program Management Activities

There are several key activities that form the overall management of program expenditures. The minimum requirements for documenting key program management activities are outlined in detail below.

Additional INAC (Indigenous and Northern Affairs Canada) Regional Office requirements for documenting key program management activities may also apply.

When determining an individual's eligibility for the Assisted Living Program, the Administrator must:

- obtain authorization from the individual to verify with the Income Assistance Program whether or not the individual is in receipt of Income Assistance benefits;
- once authorized, verify and document any Income Assistance benefits received at the time the individual applies for care; and
- include notes and other supporting documentation in the individual's Assisted Living Client file to confirm that the individual meets the requirements listed in sections 6.3.1 to 6.3.7 in this chapter.

When the individual is not in receipt of Income Assistance benefits at the time of applying for Assisted Living care, the verifications of eligibility outlined in sections 6.3.1 to 6.3.7 in this chapter must be completed and documented in the individual's file before providing any Assisted Living services to the individual.

6.3.1. Application Form

The application must be completed in full and contain all of the following information and supporting documentation before issuing benefits to the individual.

- the full name of the individual and the individual's dependants (refer to section 6.3.3 "Identity Verification" in this chapter);
- the date of birth for the individual and individual's dependants (i.e. (that is) ages listed is not acceptable);

- the signature of the individual and his or her dependent spouse, and the date of those signatures as per INAC (Indigenous and Northern Affairs Canada) Regional Office formats and procedures;
Note: Dates can be of any form including electronically date stamped from a system or manually entered;
- an address or other indication of on reserve residency (refer to section 6.3.2 "Primary Residence" in this chapter); and
- a declaration that the information provided is accurate to the best of the individual's knowledge, signed and dated by the individual and his or her dependent spouse.

The application must be updated annually (or sooner when there is a change in circumstances, including a break in assistance).

6.3.2. Primary Residence

The Administrator must confirm that the individual is ordinarily resident on reserve before issuing benefits (the requirements for ordinarily resident on reserve are set out in section 3.2 in this chapter).

Documentation containing the current home address for the individual and each of his or her dependants must be kept in the individual's file.

The documentation must contain the current home address on at least one of the following pieces of information:

- utility bill;
- income documentation (e.g. (for example) a pay stub or other information slip for government programs such as Old Age Security, Guaranteed Income Supplement, Canada Pension Plan, and Employment Insurance);
- bank statement;
- income tax assessment or information slips for the most recent year;
- lease agreement;
- tenancy agreement;
- residency verification provided by the a Band Council's housing department;
- driver's license or vehicle registration;
- vendor invoices;
- school records (current registrations); and
- declaration of residency signed by a landlord.

When the documentation listed above cannot be obtained, given the circumstances, a Band Council Resolution verifying the Client's residency on reserve may be accepted by INAC (Indigenous and Northern Affairs Canada). However, there must be evidence on file that other sources of identification are unavailable.

6.3.3. Identity Verification

Within 60 days of the date of the initial application, the

Administrator must confirm the identity of the individual and dependent spouse as listed in the application and ensure that copies of each person's identification are placed on file. The individual applying for assistance has up to 60 days to provide proof of identification for the individual and his or her dependent spouse.

If, after 60 days of the date of initial application, the individual has not provided identity documentation for the individual and his or her dependent spouse, he or she will be ineligible to receive benefits. However, if the individual demonstrates that he or she is actively pursuing the missing identity documentation, the Administrator may extend the 60 day period until such time as it is received. In this situation, it is important that the Administrator note in the individual's file the efforts made by the individual to obtain the missing documentation.

6.3.4. Financial Needs Assessment

A clear demonstration of financial need, taking into consideration all financial resources available to the individual and dependent spouse, must be obtained from the individual prior to issuing benefits to the individual.

This means that prior to issuing benefits the Administrator must verify the individual's financial need by:

- completing and documenting an assessment of all financial resources, including income, assets, savings,

and investments, available to the individual and dependent spouse; and

- verifying official documentation to fully support the assessment of financial need.

Note: Personal property and assets identified in the financial needs assessment should be evaluated and assessed in a manner that aligns with the reference province or territory of residence.

The financial needs assessment must include copies and verification of the supporting documentation for the individual and his or her dependent spouse:

- at the time of approving the application; and
- when the assessment is updated annually (or sooner when there is a change in circumstances, including a break in assistance).

6.3.5. Budget and Decision Sheets

The budget and decision sheets must:

- be completed in full, itemizing the individual's and dependent spouse's financial resources and needs;
- be available for review during the on-site review; and
- have a numerical amount entered for each line item, including a zero (0) where there are no amounts.

6.3.6. Documentation to Support the Financial Needs Assessment

The following documentation, supporting the financial needs assessment must always be in the file:

- documentation showing amounts received from Employment Insurance or showing that the individual and dependent spouse are not eligible for benefits;
- documentation showing amounts received for Guaranteed Income Supplement, Old Age Security or Canada Pension Plan, or showing that the individual or spouse is not eligible for these benefits (when it appears that the individual or dependent spouse could be eligible for one or more of these benefits);
- current bank account statement (if the individual or dependent spouse have a bank account); and
- current and complete income tax assessments, showing total income and deductions, and/or information slips for the most recent year.

Note: When, by exception, a mandatory requirement is not met, a record of ongoing efforts to obtain the documentation or an explanation of why it cannot be obtained must always be clearly documented in the file.

In addition to the mandatory documentation described above, the following additional sources of documentation can be used to document the individual and dependent spouse's circumstances:

- last pay cheque;

- Record of Employment;
- confirmation of the Recipient's payroll (or employee list);
- Canada Child Benefit Notice;
- National Child Benefit Supplement notice (letter);
- confirmation with the province or other First Nations Social Programs to determine if the individual is receiving Income Assistance and Assisted Living benefits from the province or another First Nations Social Program (i.e. (that is) case notes, email, letter, or standard form); and
- confirmation of Post-Secondary Education, funding amounts included.

6.3.7. Formal Assessment for Non-medical Care Services

The formal assessment for non-medical care (original or a copy of the original) must be on file, and must be completed by a health or social professional in accordance with the care assessment criteria recognized by INAC (Indigenous and Northern Affairs Canada) and include the following:

- the name of the individual;
- the name of the person authorized by the reference province or territory statutes and regulations to perform a formal assessment for non-medical care services (e.g. (for example) a physician, nurse practitioner, registered nurse, licensed practical nurse, registered social worker);
- the date and signature of the designated social service or health professional;

- formal letterhead or form used by the person authorized by the reference province or territory statutes and regulations to perform a formal assessment for care services;
- a precise statement about the non-medical care services required;
- the period of time that the individual is eligible for non-medical care services (e.g. (for example) start and finish date covering the period that individual care services are eligible); and
- the type(s) and amount of non-medical individual care services required.

6.3.8. Expenditure Documentation

Expenditures require supporting documentation and information. Some of the more common expenditures requiring supporting documentation are listed in section 4.0 and 5.0 in this chapter.

When reimbursing expenditures, the following requirements apply:

- the program expenditure must match the amount identified on the receipt, invoice, purchase order, chit or statement (original or copy of original) that is kept on file;
- the file documentation must demonstrate that the amount paid is eligible as per this Manual;

- for each receipt, invoice, purchase order, chit or statement that contains the Client's name, the name on the document must match the name of the individual or the dependent spouse;
- the non-medical care services on the invoice (log of services provided and paid for) must correspond to, or make up part of, an individual's care plan based on the formal assessment of needs; and
- for adult foster care and institutional care, documentation must be provided to verify that services do not exceed Types I and II care, federal classification or equivalent.

6.3.9. Licensing and Accreditation Guidelines

For adult foster care and institutional care, documentation confirming that the care home or facility operates according to the licensing, recognition, or accreditation guidelines of the relevant province or territory is required.

Examples of documentation include a copy of the licence provided by the reference province or territory or a letter from the province or territory confirming that the facility meets licensing standards.

Chapter 4: Family Violence Prevention Program

1.0 Program Description and Objective

1.1. The Family Violence Prevention Program consists of two main components:

1. Core Shelter Operations - Core operating funding to an existing network of 41 family violence shelters serving First Nation communities.
2. Prevention - Proposal-based activities that support family violence prevention activities in Aboriginal communities such as outreach services and public awareness, education campaigns, conferences, seminars, workshops, counselling, support groups, community needs assessments, community program development, research and evaluation.

1.2. The Family Violence Prevention Program is intended to fund family violence prevention services that are responsive to community needs. The primary objective is to support women, children and families living on reserve with family violence shelter services through funding for core shelter operations. The secondary objective is to support family violence prevention activities through funding for Aboriginal communities and organizations (First Nations, Métis and Inuit) on and off reserve.

1.3. The expected outcome of the Family Violence Prevention Program is the enhanced safety and security of women, children and families living on reserve by providing funding to Funding Recipients to permit them to deliver family violence prevention and protection services.

1.4. The Family Violence Prevention Program reimburses the Government of Alberta and the Government of Yukon, where service delivery arrangements currently exist, for the actual costs of maintaining an individual or family ordinarily resident on reserve in Alberta or Yukon family violence shelters at provincial or territorial per diem rates and rules. INAC (Indigenous and Northern Affairs Canada) undertakes reviews and compliance activities to verify these expenditures.

1.5. The Family Violence Prevention Program also provides funding to the National Aboriginal Circle Against Family Violence to provide a national coordinating role by supporting shelters and their staff through training forums, gatherings, the development and distribution of resources, and research and collaboration with key partners.

1.6. Canada Mortgage and Housing Corporation (CMHC) provides capital for the construction, renovation and major repairs of women's shelters through its Shelter Enhancement Program (SEP). For more information, please visit CMHC (Canada Mortgage and Housing Corporation)'s website or call CMHC at: 1-800-668-2642.

1.7. Other federal programs provided to First Nations from Health Canada, the Department of Justice, Public Safety Canada, and provincial and territorial programs contribute to the continuum of services required to address family violence.

2.0 Client Eligibility Criteria

For the purposes of providing services and support through the Family Violence Prevention Program, "ordinarily resident on reserve" means that an individual:

- lives or stays on reserve and has no usual home elsewhere; or
- continues to be considered ordinarily resident on reserve when he or she is off reserve for the primary purpose of obtaining medical, education, training or social services not available on reserve.

Note: Emergency supports may be provided in accordance with provincial and territorial guidelines. For the purposes of Family Violence Prevention Program, First Nation residents in the Yukon are considered "ordinarily resident on reserve".

3.0 Eligible Funding Recipients

Note: ✓ indicates the program component that the Funding Recipient is eligible for.

Eligible Funding Recipients	Core Shelter	
	Operations	Prevention
Councils of First Nation bands recognized by the Minister of Indian Affairs and Northern Development	✓	✓
Tribal Councils	✓	✓
Provinces	✓	
Yukon Territory	✓	

Eligible Funding Recipients	Core Shelter Operations	Prevention
First Nations authority, board, committee or other entity approved by Chief and Council	✓	✓
Incorporated shelters (see section 3.1 in this chapter)	✓	✓
First Nation Child and Family Services Family Violence Prevention Program Agencies or Societies	✓	✓
Aboriginal communities and organizations (First Nations, Métis and Inuit) off-reserve		✓

3.1. Incorporated Shelters

If a shelter would like to become an eligible Funding Recipient and receive Family Violence Prevention Program funds directly, it must be incorporated provincially or federally.

3.1.1. Provincial or Federal Incorporation

INAC (Indigenous and Northern Affairs Canada)-funded shelters may choose to incorporate either provincially or federally.

For more information on how to have a shelter incorporated

provincially (to solicit funds provincially), refer to the [Canada Revenue Agency website](#).

For more information on how to have a shelter incorporated federally (to solicit funds across Canada), refer to the [Innovation, Science and Economic Development Canada website](#).

3.2. Registered Charities

To complement [INAC \(Indigenous and Northern Affairs Canada\)](#)'s core shelter operating funds, a shelter can become a registered charity and benefit from charitable donations. For more information, refer to "Applying for Registration" on the [Canada Revenue Agency website](#).

Note: Any charitable donations received by the registered shelter are not included in its stacking limits.

4.0 Core Shelter Operations - Funding

4.1. Conditions of Funding

4.1.1. Funding for core shelter operations can only be used for family violence shelter and prevention activities (refer to section 6.0 in this chapter for a list of eligible services and expenditures).

In order for a Funding Recipient to continue to receive shelter

operating funding from INAC (Indigenous and Northern Affairs Canada), a shelter must be operating as a family violence shelter for women, children and families. These shelters should therefore not be operating as a temporary or long-term housing solution (e.g. (for example) for youth, elders, the homeless, community members).

4.1.2. If a Funding Recipient is not using shelter funds to support the operation of a family violence shelter (confirmed by a program compliance review), then INAC (Indigenous and Northern Affairs Canada) may request an operational or strategic plan from the Funding Recipient; recover funds; and change the type of funding arrangement to ensure that funding directly supports the provision of family violence shelter services.

When a Funding Recipient is in default of the terms and conditions of the Funding Agreement, INAC (Indigenous and Northern Affairs Canada) may take action in accordance with the terms and conditions of the Funding Agreement.

4.2. Funding Formula

A national shelter funding formula establishes regional allocations and shelter operating budgets that are fair and consistent across Canada. Allocations are based on the size of the shelter, its province of operation and geographic location and, where applicable, funds to cover the costs associated with remoteness and emergency needs.

This formula is designed to support primary and secondary core shelter operations.

Primary core shelter operations outline the basic services and supports that shelters are required to provide.

Secondary core shelter operations outline the additional services and supports that shelters may provide.

4.2.1. Primary core shelter operations include the following:

- a safe and welcoming residential environment, with appropriate space for children;
- secured shelter, both inside and outside the shelter, which includes a fence, alarm system, surveillance camera, etc. (*et cetera*);
- secured file cabinets to maintain confidential documentation and case files;
- training to assist staff in delivering or providing referrals for the following services:
 - programming and counselling (group and individual) for women, children, youth and men (for both perpetrators off-site and victims either on-site or off-site) in the areas of:
 - treatment and intervention (counseling for individuals, children, abusers, groups, mental

health/illness, suicide intervention, referral for addictions)

- culturally sensitive services
- awareness
- self-development
- children's programs
- crisis intervention (including a 24 hour/7 days a week crisis telephone line or a peak-time crisis telephone line when a 24 hour/7 days a week service already exists in the area);
- individual case planning, referral and advocacy to access other supports, systems, and resources (social, legal, medical, etc. (et cetera));
- nutritious meals and safe food preparation;
- transportation; and
- data collection and tracking for administrative and evaluative purposes.

4.2.2. Secondary core shelter operations include the following:

- verification of post-shelter arrangements and referrals before departure;
- community education and awareness-raising (for service providers and the general public);
- development of networks, collaborations and protocols with other partners (other shelters, federal departments, provinces, municipalities, Aboriginal community

organizations, First Nations Child and Family Services agencies, addiction treatment centers, health services, medical agencies, healing and health promotion, schools, police and RCMP (Royal Canadian Mounted Police), legal aid, social assistance agencies, social housing, charitable and not-for-profit organizations, volunteers); and

- collaboration at the community level (e.g. (for example) between community health and shelter managers, etc. (et cetera)).

Note: For a detailed list of eligible expenditures, please refer to section 6.1 in this chapter.

5.0 Prevention Projects - Funding

5.1. Funding Methodology

INAC (Indigenous and Northern Affairs Canada) Regional Offices distribute funding to Funding Recipients based on regionally-established proposal processes rather than only using a population-based formula. This methodology allows INAC (Indigenous and Northern Affairs Canada) Regional Offices to provide aggregate funding to various entities that are interested in developing their capacity to address family violence in a strategic way (see section 3.0 in this chapter).

5.2. Application Process

Each INAC (Indigenous and Northern Affairs Canada) Regional

Office has its own process for applying, reviewing and approving prevention projects. Please contact your INAC (Indigenous and Northern Affairs Canada) Regional Office for more information.

The FVPP (Family Violence Prevention Program) Prevention Proposal assessment criteria for off reserve projects.

Criteria include:

- that the proposal meets the objectives and terms and conditions of the Family Violence Prevention Program;
- that the project can support a target audience, a need, and identifies a delivery method;
- that the project includes partnerships with other organizations to leverage volunteers, time, resources or funding (refer to the box note in section 5.3 in this chapter);
- that the proposal indicates number of Clients expected to participate in this project; and
- that the project can be adopted and used as a best practice by other communities or other organizations.

Family Violence Prevention Program prevention funds are pooled in INAC (Indigenous and Northern Affairs Canada)'s Regional Offices, who may then transfer these funds to a First Nations authority, board, committee or other entity approved by Chief and Council to administer. As proposals are approved by INAC (Indigenous and Northern Affairs Canada) Regional Offices or another entity such as a First Nations authority, board,

committee or other entity approved by Chief and Council, available funds may be transferred to the First Nation's (or other eligible Funding Recipient's) Funding Agreement.

5.3. Prevention projects include the following activities:

- **Treatment and Intervention:** Individual or group counseling to help women, children, youth and men dealing with family violence and related issues (residential school trauma, grief, substance abuse and addictions, mental health illness, suicide intervention) for the duration of the prevention project only.
- **Culturally Sensitive Services:** Elder and traditional teachings, family healing, healing circles and traditional healing, inner healing, residential school survivor support.
- **Awareness:** Alternatives to violence, anger management, bullying, characteristics of abuser, cycle of violence, men's programs, outreach, research projects (including collecting data such as inventories, literature reviews, training materials and data for statistics, conducting surveys, and evaluating treatment protocols and models for service delivery), safety planning.
- **Self-Development:** Financial management skills, healthy parenting, healthy relationship, healthy sexuality, life skills, social skills development for youth and adults (women and men).

Generally, efforts should be made to support prevention projects that are able to leverage partnerships and additional funding so that the project can have a greater impact or demonstrate greater effectiveness in the community or in multiple communities.

Please note that some of these prevention activities may also be funded by another federal government department (e.g. (for example) Health Canada, Public Safety Canada). A Funding Recipient may apply for and receive funds from multiple partners in order to increase its total project budget so that it may deliver a more meaningful and effective family violence prevention project. Funding recipients must ensure and demonstrate that funds from multiple partners are supporting different activities under the same project.

For example, a Funding Recipient may submit to INAC (Indigenous and Northern Affairs Canada) a Family Violence Prevention Program proposal for a prevention project on healthy parenting with a request for \$15,000 to cover the costs of developing outreach and educational materials and submit to Health Canada a proposal with a request for \$10,000 for the same project, but to cover different costs such as capacity building. In this case, both departments are funding the same project, but covering different activities.

5.4. Delivery methods of prevention projects include:

- **Seminars, Workshops and Conferences:** The project must demonstrate that the event will achieve an increase in knowledge, skill development, networking, or information sharing on a subject related to preventing family violence in Aboriginal communities.
- **Traditional Delivery Methods:** To address family violence in a way that is responsive to community needs such as healing circles, traditional healing, cultural camp, elder and traditional teachings.
- **Public Outreach and Education Campaigns:** To develop, produce, deliver and present to an audience printed or published materials to raise awareness and educate them on a subject related to family violence in Aboriginal communities.
- **Training:** To identify, prevent and manage family violence for existing community service providers and staff, such as trainers, child protection workers, community health representatives, nurses, social workers, teachers, other professionals and para-professionals, law enforcement personnel and community leaders. Also includes developing training and resource materials or models for use in Aboriginal communities.
- **Community Needs Assessments:** To identify Aboriginal community needs and develop a strategic plan to address family violence in the community, including all potential partners.

- **Community Program Development:** To deliver community projects that are short term and innovative, build on, and strengthen existing community services or resources, and respond constructively to family violence in Aboriginal communities.

5.5. Recipient Reporting

When a Funding Recipient does not submit its Family Violence Shelter and Prevention Project annual report, the funding for approved prevention projects shall be withheld by INAC (Indigenous and Northern Affairs Canada).

6.0 Eligible Expenditures

6.1. Note: ✓ indicates the associated expenditure type is eligible.

	Core Shelter Operations	Prevention ⁵	National Aboriginal Circle Against Family Violence
Eligible Expenditures			
Staff salaries and benefits	✓	✓	✓

Eligible Expenditures	Core Shelter Operations	Prevention ⁵	National Aboriginal Circle Against Family Violence
Professional development, including: <ul style="list-style-type: none"> • membership and conference fees • tutoring functions (e.g. (for example) <u>online training and other professional development opportunities</u>) 	✓	✓	✓
Board and committee operations (where applicable)	✓	✓	✓

Eligible Expenditures	Core Shelter Operations	Prevention ⁵	National Aboriginal Circle Against Family Violence
<p>Direct Client costs, for example:</p> <ul style="list-style-type: none"> • food • bedding, towels, soaps, etc. (et cetera) • personal incidentals (e.g. (for example) diapers, clothing and hygiene) • transportation to and from shelter • child care and car seats • programming and related supplies • recreation 	✓		

Eligible Expenditures	Core Shelter Operations	Prevention ⁵	National Aboriginal Circle Against Family Violence
-----------------------	-------------------------	-------------------------	----------------------------------------------------

Operations, minor maintenance, upgrading and repairs of facilities, ⁵ including:



- utilities (includes garbage and snow removal)
- appliances, furniture and equipment
- computer and internet access
- library and resources
- upgrading (e.g. (for example) wheelchair accessible)
- off-hour emergency services
- security (e.g. (for example) fences, cameras, alarm

Eligible Expenditures	Core Shelter Operations	Prevention	National Aboriginal Circle Against Family Violence
system, file cabinets with locks) <ul style="list-style-type: none">• Client needs assessments• data collection• post-shelter arrangements and referrals.		5	

Eligible Expenditures	Core Shelter Operations	Prevention ⁵	National Aboriginal Circle Against Family Violence
Overhead administration costs not exceeding 15% of the total contribution ² , including: <ul style="list-style-type: none"> • payroll administration fees • office supplies and equipment • telephone and IT (information technology) support services • human resource services and recruitment. 	✓	✓	✓
Crisis Line	✓		
Staff transportation and travel (using established rates)	✓	✓	✓

Eligible Expenditures	Core Shelter Operations	Prevention ⁵	National Aboriginal Circle Against Family Violence
Client transportation (e.g. (for example), taxis, use of First Nation owned/leased vehicles)	✓		
Costs for prevention activities, training forums, workshops, outreach (including instructional and information materials, facilitator per diem)	✓	✓	✓
Professional and Paraprofessional services	✓	✓	✓
Legal services fees and costs	✓	✓	✓
Insurance	✓		✓
Audits, monitoring, evaluation and policy development	✓	✓	✓

Note: Eligible expenditures also include the actual costs of maintaining an individual or family ordinarily resident on reserve in Alberta shelters and one shelter in Yukon, where service delivery arrangements currently exist, at provincial or territorial per diem rates and according to provincial or territorial rules.

6.2. Notwithstanding the eligible expenditures identified in section 6.1, the following items are excluded as an eligible expenditure:

6.2.1. Excluded Expenditures for Shelters and Prevention

- capital costs (except minor maintenance);
- feasibility studies for shelters, crisis centers or transition homes;
- retroactive funding or formulation funding;
- repayment of personal or community debts;
- for-profit initiatives and investments;
- costs related to the purchase, ownership, and maintenance of vehicles; and
- shelters operating as temporary or long-term housing solutions (e.g. (for example) for youth, elders, the homeless, community members).

6.2.2. Excluded Shelter Expenditures

The Family Violence Prevention Program does not fund the construction, renovation or major repair of family violence prevention shelters. Funding Recipients should apply to CMHC (Canada Mortgage and Housing Corporation) for

funding for major renovation projects through the Shelter Enhancement Program.

6.2.3. Excluded Prevention Project Expenditures

Expenditures incurred after the project completion date, as set out in the approved project proposal, are ineligible for funding from INAC (Indigenous and Northern Affairs Canada).

Therefore, all prevention project expenditures must be incurred by the project completion date, as set out in the approved project proposal. For example, salaries can only be paid for the duration of the project and cannot support permanent positions.

Ongoing costs, such as long-term treatment or counselling services, must be incurred by the project completion date. However, a Funding Recipient can refer Clients to other services. Funding Recipients with long-term service considerations can apply for multi-year funding.

7.0 Requirement to Maintain Files and Records

7.1. Funding decisions require the administrator to collect and keep information that supports the eligibility of the expenditures and the management of a shelter. ⁸

7.2. The type of information that is used to assess and confirm the eligibility of shelter expenditures includes the following:

- general ledger and supporting accounting records;
- working papers, lists, system reports and any other information necessary to complete each INAC (Indigenous and Northern Affairs Canada) reporting requirement;
- pay lists used to create payments and cheques;
- all supporting documentation for program expenditures (receipts, invoices, cancelled cheques);
- payroll records for Family Violence Prevention Program staff; and
- admission records for Clients.

The following program management information will also be requested during a program compliance review of the shelter operations and activities:

- human resource policies;
- confirmation or proof that a criminal records check was conducted; for each shelter employee;
- shelter rules to support a safe environment for Clients;
- practices and written procedures to protect confidential information;
- community plan to address family violence; and
- shelter security measures.

7.3. Essential Records for Prevention

The types of information that is used to assess and confirm the eligibility of prevention expenditures includes the following:

- prevention project application form and approval letter;
- working papers, lists, system reports and any other information necessary to complete each INAC (Indigenous and Northern Affairs Canada) reporting requirement;
- documentation to support all prevention project expenditures and activities outlined in section 5.0 and 6.0 in this chapter (including receipts, invoices, and cancelled cheques); and
- general ledger and supporting accounting records that reconcile the amounts per the financial statements and the financial expenditures contained within the project report.

Chapter 5: First Nations Child and Family Services (under review)

Further to the January 2016 Canadian Human Rights Tribunal ruling that the First Nations Child and Family Services Program's discriminatory practices must be reformed, the Government of Canada committed to a full-scale reform of the First Nations Child and Family Services Program. The government is working closely with key partners to reform the program, including the National Advisory Committee on First Nations Child and Family Services Program Reform, First Nations Child and Family Services agencies, front-line service providers, communities, leaders,

organizations, provincial governments and the Yukon government. All of these partners have important voices and perspectives that must be heard and considered in order to make changes that will best serve the needs of First Nations children and families on reserve.

This chapter and other guiding documents are currently being revised as program reform takes place. In the meantime, if you have questions about this program, please contact your regional office for assistance.

In the interim, minor administrative updates have been made to the First Nations Child and Family Services chapter of the Social Programs National Manual. This chapter and other guiding documents will be further revised as program reform takes place.

Appendix A Specified Communities

The following is a list of Specified Communities whose residents are deemed eligible for INAC (Indigenous and Northern Affairs Canada) -funded social programs and services based on unique circumstances.

1. Kitcisakik - Canton de Hamon
2. Long Point First Nation - Winneway
3. Pakua Shipi - Saint Augustin
4. MaiganAkik - Barriere Lake
5. Aroland

6. Nibinamik
7. Marcel Colomb Cree - Lynn Lake
8. Mathias Colomb Cree Nation - Granville Lake
9. O-Pipon-Na-Piwin Cree Nation - South Indian Lake
10. War Lake First Nation - Ilford
11. Fox Lake First Nation - Gillam
12. Ocean Man
13. Athabasca Chipewyan First Nation (ACFN) - Ft. Chipewyan
14. Mikisew Cree First Nation - Fort Chipewyan
15. Little Red River Cree Nation (LRRCN) - Garden River
16. Lubicon Lake Band - Little Buffalo
17. Tsay Keh Dene First Nation (Ingenika Band)
18. Old Massett Village Council
19. Lax Kw'alaams
20. Iskut
21. Lake Babine Nation
22. Wet'suwet'en First Nation - Bromon Lake
23. Whe-La-La-U

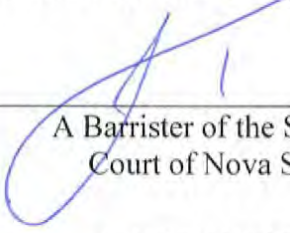
Footnotes

- 1 Refer to the applicable Funding Agreement for the specific requirements of record keeping.
- 2 Not established in all Regions.

- 3 The definitions of care are based on: *The Report of the Working Party on Patient Care Classification to the Advisory Committee on Hospital Insurance and Diagnostic Services (1973)* and *The Memorandum of Understanding Regarding the Delineation of Responsibility Between the Medical Services Branch of the Department of National Health and Welfare [now Health Canada] and the Department of Indian Affairs and Northern Development for Adult Care for Elderly, Disabled and Handicapped Indians (1984)*
- 4 Refer to the applicable Funding Agreement for the specific requirements of record keeping.
- 5 As per 6.2.3, prevention expenditures are only eligible for the duration of the project.
- 6 Minor repairs should not exceed \$50,000. Should there be a need for major repairs (i.e. (that is) exceeding \$50,000), please contact your regional office.
- 7 In instances where a First Nations authority, board, committee or other entity approved by Chief and Council administers prevention projects, administration costs may exceed 15%, subject to prior approval by the INAC (Indigenous and Northern Affairs Canada) Regional Program Manager.
- 8 Refer to the applicable Funding Agreement for the specific record keeping requirements.

Date modified: 2017-10-17

This is **Exhibit "2A"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia



NATIONAL RECIPIENT GUIDE
**FOR REIMBURSEMENT OF 2018-2019 PREVENTION AND OPERATIONS
FIRST NATIONS CHILD AND FAMILY SERVICES (FNCFS) ACTUAL COSTS
RESULTING FROM THE
CANADIAN HUMAN RIGHTS TRIBUNAL ORDERS DATED
January 26, 2016, April 26, 2016, September 14, 2016 and February 1, 2018**

Note to Readers

On February 1st, 2018 the Canadian Human Rights Tribunal (2018 CHRT 4) ordered Canada to fully reimburse First Nations Child and Family Services agencies' costs for prevention/least disruptive measures, intake and investigation, legal fees, building repairs, the child service purchase amount and for small agencies, based on actual needs and on the same basis as the practice for funding maintenance costs (i.e. to fully reimburse actual costs for these services as determined to be in the best interest of the child).

Canada will continue to fund these areas on actuals until an alternative funding system/approach has been developed and implemented.

The purpose of this document is to support Recipients in accessing funding as per the Canadian Human Rights Tribunal (CHRT) decision *2018 CHRT 4* (the Decision), and to provide Recipients with information on the standard requirements to be met when preparing claims for reimbursement of 2018-2019 eligible actual costs should Recipients' existing budget not be sufficient to cover those costs. The two types of funding approaches for reimbursement are either advance claims or claims for reimbursing incurred eligible actual costs.

Throughout the document, the term Recipient refers to existing pre-delegated/ pre-designated and delegated/designated FNCFS Agencies (including Tribal Councils and First Nation Bands) eligible to enter into a funding agreement or having an existing funding agreement with the Department of Indigenous Services Canada (ISC) (formerly known as Indigenous and Northern Affairs Canada (INAC)).

There is a separate guide for Band Representative Services claim process in Ontario Region and for Agencies requiring a funding agreement with ISC.

This document does not limit or prejudice in any manner any right or discretion of the Minister, the Minister's representatives, the Auditor General of Canada, or anyone acting on behalf of the Auditor General of Canada, including, without limitation or prejudice to the generality of the foregoing, any of their rights or discretion under the Funding Agreements to request and obtain from Recipients or third parties information or documents in addition to, or different from, those specified herein. ISC commits to notifying Recipients and the Parties in writing of any changes within the Guide as they may occur.

November 9th, 2018

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1. PREAMBLE

The paragraphs of the February 1st, 2018 CHRT Decision relating to the reimbursement of eligible actual costs can be found in **Annex A of this document** and the full decision can be found at:

fncaringociety.com/sites/default/files/2018%20CHRT%204.pdf

2. 2018-2019 ELIGIBLE COSTS FOR REIMBURSEMENT

This section outlines the principles and provides information on the reimbursement of eligible actual costs claims for the **period covering April 1, 2018 to March 31, 2019 (fiscal year 2018-2019)** pursuant to the CHRT Decision, that respects the current First Nations Child and Family Services (FNCFS) program authorities¹ and the Treasury Board Secretariat Policy on Transfer Payments.

Annex B of this document includes the text of the letters sent by Indigenous Services Canada (ISC) to Recipients on February 1st, 2018.

2.1 Principles

The following considerations shall be taken into account in determining the costs:

- The actual cost determined by the Recipient to be in the best interest of the child;
- Whether the cost is generally recognized as normal and necessary for the conduct of the activity;
- The restraints and requirements related to such factors as generally accepted accounting principles, arm's length bargaining, federal, provincial and local laws and regulations;
- To ensure substantive equality and the provision of culturally appropriate services, the needs of each individual child and his or her family must be considered and evaluated, in light of their distinct needs and circumstances including their cultural, historical and geographical needs and circumstances, for instance by taking into account any needs that stem from historical disadvantages and the lack of services on-reserve and/or surrounding services; and
- The costs related to women, children and families ordinarily resident on reserve and for children registered under the *Indian Act* or who are entitled to be registered.

There are two types of actual cost claims' funding approaches for reimbursement (either advance claims or claims for reimbursing incurred eligible actual costs).

The purpose of the advance on actual costs claim for planned activities / spending is to reimburse actual costs for which Recipients will not seek the reimbursement from any federal department (including ISC), or provincial, territorial, or municipal government funding, if known by the recipient.

The purpose of reimbursing for unforeseen or unplanned incurred actual costs' claims is to reimburse actual costs not already covered by any federal department (including ISC), or provincial, territorial, or municipal government funding.

¹ In keeping with the January 2016 Decision and subsequent rulings of the Canadian Human Rights Tribunal on First Nations Child and Family Services, the Government of Canada is working with the parties to implement all of the Tribunal's orders. The Department is making changes to the program authorities to remove references to previous discriminatory funding approaches, and to reflect the most recent Tribunal orders. The Terms and Conditions and other guiding documents will continue to be revised as program reform takes place. ISC will work with parties to develop a Framework/Directive for ensuring the program is applying a substantive equality lens.

2.2 2018-2019 Eligible for Costs or Recipients on payment by actuals

Funding for prevention, protection, maintenance, legal services, child service purchase amounts, intake and investigations, building repairs, and agency operations costs for small FNCFS pre-delegated/pre-designated and delegated/designated Agencies is based on the actual needs of the children and families served by FNCFS pre-delegated/pre-designated and delegated/designated as reflected by expenditures in these categories.

Maintenance Expenditures

Costs for maintenance will continue to be reimbursed based on actual costs incurred. Please continue to fill-out the Data Collection Instrument (DCI) #455917 “*Child and Family Services Maintenance Report*” for eligible maintenance expenditures as per the DCI User Guide and related instructions. The CHRT excel claim form is not the reimbursement approach to be used for maintenance expenditures.

Prevention/Least Disruptive Measures and Operations

In addition, the Department will reimburse actual costs for the following expenses when they are not already covered by any federal department (including ISC), or provincial, territorial, or municipal government funding:

- prevention/least disruptive measures;
- intake and investigations services;
- legal fees;
- building repairs; and,
- child service purchase costs.

Small Agencies (serving a population of 1000 children or less) are also eligible for reimbursement of actual costs under operations and prevention. Please see section 2.3 for additional information.

Agencies are responsible for administering any salary adjustment claims in accordance with federal and provincial payroll rules (Canada Pension Plan, Income tax deductions, etc.).

Please refer to **Annex C of this document** for additional details on eligible costs for reimbursement.

Additional bookkeeping/audit costs for all cost categories of this Section 2.2 will be reimbursed as either advance funding allocation or reimbursement of incurred costs.

2.3 2018-2019 Eligible Costs for Small Agencies

Effective April 1, 2018, small agencies are defined as those serving a **child population (0-18) of less than 1000**. ISC provides small agencies with an initial allocation (based on the existing funding formula, FNCFS Agency business plan, negotiation, etc.) at the beginning of the year. Where this initial allocation is not sufficient to meet small agencies’ needs, ISC will reimburse small agencies’ eligible actual costs in all areas similar to how maintenance costs are currently funded by ISC.

For small agencies, all salaries are eligible for actual funding to a level comparable to the provincial wages and benefits for similar positions, both retroactively (back to January 26, 2016) and going forward. Retroactive compensation includes overtime that your staff may have incurred because your budget did not permit you to hire the required number of staff. Going forward overtime will be funded as part of the process to fund actual costs. These steps to implement the CHRT’s orders apply to all salaries, and not only those related to prevention or intake and investigation.

Small agencies are responsible for administering any salary adjustment claims in accordance with federal and provincial payroll rules (Canada Pension Plan, Income tax deductions, etc.).

3. PROCESS FOR REIMBURSEMENT OF ACTUAL ELIGIBLE COSTS BASED ON FUNDING ALLOCATION FOR PLANNED OR INCURRED ACTIVITIES/SPENDING

If Recipients are in need of more funding, in cases where their existing budget is not sufficient to cover planned and/or incurred actual costs, ISC will reimburse eligible actual costs that have not already been funded by ISC.

Recipients can submit a request to ISC outlining their planned/held activities and the funding required or has incurred. Consistent with the Treasury Board Secretariat Policy on Transfer Payments, ISC will provide 100% of the requested funding as an advance for reimbursing based on actual needs.

Recipients can submit more than one claim to their ISC Regional Office for reimbursement.

3.1 Steps required for the submission of an *Actual Costs Claim Excel Form* to ISC

Step 1: Identify your planned or incurred activities' / spending

- Identify your 2018-2019 planned or incurred activities that may be eligible for reimbursement when existing funding is not sufficient to cover actual costs.

Step 2: Complete the *Actual Costs Claim Excel Form* template

- This is an Excel spreadsheet that is divided into tabs for each type of expenditure. The first page (“Cover Page”) of the spreadsheet will automatically calculate the totals.
- Enter your organization’s details on the first page “Cover Page” of the spreadsheet.
- On each tab, use one line to enter a description of the forecasted planned or incurred activity / spending and the full 100% unfunded forecasted amount. Each individual detailed activity line amount will be calculated automatically at the top left of each cost category page (in each tab).
- Then, all totals of each tab will be reported automatically on the Cover Page for reimbursement.

Step 3: Submit your Actual Costs Claim

- Submit the *Actual Costs Claim Excel Form* to the ISC Regional Office.

For 2018-2019 incurred prevention and operations costs not previously claimed, recipients are strongly encouraged to submit their completed *Actual Costs Claim Form* for reimbursement to their ISC Regional Office by March 1st, 2019, to allow year-end financial processes. If a recipient requires more time, the ISC Regional Office will work with the recipient.

Annex D of this document provides a description of the required fields under the Form template and instructions to Recipients on how to prepare an *Actual Costs Claim Excel Form* to be submitted to ISC eligible costs for planned or incurred activities / spending.

4. REQUIRED DOCUMENTATION

The template “*Actual Costs Claim Excel Form*”, which is explained above in detail, is the standard document that should be used for submission.

The minimum requirements to be submitted by Recipients to ISC are the Cover Page (first tab of each of the Excel Claim Form) with accompanying information to demonstrate eligible actual costs.

Canada is flexible if receipts or invoices are not available, but some form of documentation is required for Canada to meet its financial accountability requirements. Should there not be an invoice or receipt, the Department will work with the requestor to complete a declaration and/or identify some other form of documentation to process the claim (e.g., existing audited financial statements, general ledgers, email confirmation from suppliers or an attestation, etc.).

5. CLAIMS COMPLETENESS CHECK AND REIMBURSEMENT PROCESSING TO RECIPIENTS

5.1 Claims Completeness Check and Supporting Documentation

FNCFS Regional Officers will ensure the completeness of the Recipient’s claim before it is processed and will contact the Recipients if documentation is incomplete. ISC may also request Recipients to submit documentation to support and verify the eligibility of the expenses for reimbursement, such as: invoices, quotes, proposals, financial documentation, timesheets, provincial salary grid, etc.

5.2 Reimbursement Processing to Recipients

Since Recipients are under an existing funding agreement with ISC, **Regional Officers may have to send a Notice of Acceptance of Request (NAR) to Recipients** to issue payments once the completed claim has been received and the requirements under this Guide have been met. No signature by the Recipient is required on the NAR to issue payment.

Annex E of this document provides an overview of timelines for the reimbursement of actual costs. ISC will make every effort to ensure that the administrative burden is reduced to expedite the reimbursement of claims to Recipients.

Once the Recipients’ claims requests have been submitted and accepted by ISC for payment, ISC will issue an electronic deposit funds transfer.

6. THE FUNDING AGREEMENTS

Funding Agreements set out the program delivery requirements describing the nature and type of FNCFS costs that are eligible for reimbursement.

Notwithstanding the funding agreement provision where fixed funding is provided (i.e. any amount that the Recipient spends that is more than the maximum FIXED amount for the program, service or activity for the specified fiscal year is the responsibility of the Recipient), as per the CHRT Decision, the eligible costs categories based on actual cost claims by Recipients must be reimbursed by ISC, and in case of unexpended funding, Recipients can carry over funding to the next year.

7. RECIPIENT REPORTING REQUIREMENTS

Recipients will continue to be responsible – with the assistance of their accountants/auditors – to report using CPA Canada Standards, Guidelines etc. For example, adherence to Generally Accepted Accounting Principles – Matching Principle – where revenues and costs can be matched appropriately to leave a clear audit trail and ensure that costs are not reimbursed more than once.

For 2018-2019 Budget expended costs, in accordance with the requirements set out in the Data Collection Instrument #1208367, *First Nations Child and Family Services Annual Report*, the Recipients must submit a report for all 2018-2019 expenditures. Recipients must clearly identify, in Section 2, 2018-2019 Budget Current Year, the overall funding received in 2018-2019.

See Annex F of this document for Section 2 of Data Collection Instrument #1208367 “*FNCFS Annual Report*”.

8. AUDIT TRAIL FOR ELIGIBLE COSTS

In accordance with the provisions of the Funding Agreement, the Recipients’ responsibility is to keep and maintain books of accounting and other records in which all receipts and disbursements in relation to the eligible costs are recorded. The description on the *Claim Excel Form* request should be consistent with the description of goods/services involved.

9. APPEALS PROCESS

ISC has developed an escalation resolution protocol for CHRT claims. The Department is developing an appeals process in consultation with the Parties. Recipients will have the right to appeal full or partial denials.

10. CONTACT INFORMATION

For information on how to process claims not captured in the current forms or for assistance completing the forms please contact your ISC Regional Office representatives.

ANNEX A – FEBRUARY 1ST, 2018 CHRT PARAGRAPHS

The following are the paragraphs of the February 1st, 2018 CHRT Decision relating to the reimbursement of eligible actual costs:

CHILD SERVICE PURCHASE AMOUNT:

[416] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to develop an alternative system for funding **child service purchase amount services** for First Nations children and families on-reserve and in the Yukon, based on actual needs, which operates on the same basis as INAC's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFC agencies to be in the best interests of the child and develop and implement the methodology including an accountability framework in consultation with AFN, the Caring Society, the Commission, the COO and the NAN (see protocol order below), by **April 2, 2018** and report back to the Panel by **May 3, 2018**.

[417] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to cease its discriminatory funding practice of not fully funding the costs of **child service purchase amount**. In order to ensure proper data collection and to be responsive to the real needs of First Nations children and families, the Panel orders Canada, to provide funding on actual costs for child service purchase amount in child welfare, to be reimbursed retroactive to January 26, 2016 by **April 2, 2018**. This order complements the order above.

SMALL AGENCIES:

[420] The Panel, pursuant to Section 53 (2) (a) of the CHRA orders Canada, pending long term reform of its National FNCFS Program funding formulas and models, to eliminate that aspect of its funding formulas/models that creates an incentive resulting in the unnecessary apprehension of First Nations children from their families and/or communities. To this effect, and pursuant to Section 53 (2) (a) of the CHRA, the Panel orders Canada to develop an alternative system for funding **small First Nations agencies based on actual needs which operates on the same basis as INAC's current funding practices for funding child welfare maintenance costs**, that is, by fully reimbursing actual costs for these services, as determined by the FNCFC agencies to be in the best interests of the child and develop and implement the methodology including an accountability framework in consultation with AFN, the Caring Society, the Commission, the COO and the NAN (see protocol order below), by **April 2, 2018** and report back to the Panel by **May 3, 2018**.

[421] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to cease its discriminatory funding practice of not fully funding the small First Nations agencies' costs. In order to ensure proper data collection and to be responsive to the real needs of First Nations children, the Panel orders Canada to provide funding on actual costs small First Nations agencies, to be reimburse retroactive to January 26, 2016 by **April 2, 2018**. This order complements the order above.

PREVENTION/LEAST DISRUPTIVE MEASURES, BUILDING REPAIRS, INTAKE AND INVESTIGATIONS AND LEGAL FEES:

[410] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada, pending long term reform of its National FNCFS Program funding formulas and models, to eliminate that aspect of its funding formulas/models that creates an incentive resulting in the unnecessary apprehension of First Nations children from their families and/or communities. To this effect, and pursuant to Section 53 (2) (a) of the CHRA, the Panel orders INAC to develop an alternative system for funding **prevention/least disruptive measures, intake and investigation, legal fees, and building repairs services** for First Nations children and families on-reserve and in the Yukon, based on actual needs which operates on the same basis as INAC's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFC agencies to be in the best interests of the child and develop and implement the methodology including an accountability framework in consultation with AFN, the Caring Society, the Commission, the COO and the NAN (see protocol order below), by **April 2, 2018** and report back to the Panel by **May 3, 2018**.

[411] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to cease its discriminatory funding practice of not fully funding the costs of **prevention/least disruptive measures, building repairs, intake and investigations and legal fees**. In order to ensure proper data collection and to be responsive to the real needs of First Nations children, the Panel orders Canada, to provide funding on actual costs for least disruptive measures/prevention, building repairs, intake and investigations and legal fees in child welfare to be reimbursed retroactive to January 26, 2016 by **April 2, 2018**. This order complements the order above.

**Areas of Actuals Cost for
First Nations Child and Family Service Agency Expenditures**

In each of these areas, you will need to keep track of all of your expenditures. Should your existing budget not be sufficient to cover actual costs, the Department of Indigenous Services Canada (DISC) will reimburse you based on the actual cost. This list will be revised as we work together to implement this new approach.

Example expenditures, and funding streams they are funded over, include:

Legal Costs:

- legal services fees and costs related to a delegated First Nations Child and Family Service (FNCFS) Agency operations will be reimbursed under operations at actual cost;
- legal costs associated to a child not covered by other provincial/territorial departments and organizations or other federal departments will be reimbursed at actual cost under maintenance.

Building Repairs:

- the DISC will cover the actual costs of building renovation or repair projects to ensure facilities comply with applicable fire, safety and building codes and regulations.

Intake/Investigation:

- staff salary, training, benefits and travel will be reimbursed at actual cost under operations.

Prevention/Least Disruptive Measures:

- staff salary, travel, benefits, professional development, and staff training;
- prevention activities and least disruptive measures will be reimbursed under prevention at actual cost. Prevention activities and programming and/or least disruptive measures are designed to keep families and children together, in their own homes (as identified in the intake assessment, family service plan, family care/case plan, child's service plan, case plan, care plan, family enhancement agreement or similar document) and includes but is not limited to:
 - parenting/guardian education programs
 - respite care
 - homemaker and parent/guardian aid services
 - mentoring services for children and parents
 - home management (e.g. budgeting, financial literacy, menu planning, directing families toward appropriate services, supporting parents/guardians in their search for work);
 - cultural, recreational and other activity-related needs for children still living at home;
 - transportation and accommodation/meals (if needed) for children to attend non-medical and medical services or appointments;
 - transportation and accommodation/meals (if needed) for parents/guardians to attend non-medical (e.g. parenting classes) and medical services or appointments as identified;
 - purchase of basic needs items (e.g. a crib, bed, fridge, stove, air conditioner, etc.) meant to ensure that children be kept within the home; and
 - non-medical counselling services.

ANNEX C – 2018-2019 ELIGIBLE COSTS FOR REIMBURSEMENT FOR PREVENTION/LEAST DISRUPTIVE MEASURES AND OPERATIONS

PREVENTION/LEAST DISRUPTIVE MEASURES *

Prevention/least disruptive measures to be reimbursed based on actual needs, i.e. full reimbursement as identified by the FNCFS Recipients. Prevention activities and programming and/or least disruptive measures are designed to keep families and children together, in their homes or assist families to resolve child protection concerns so children can be reunited with their families or extended family (as identified in the intake assessment, family service plan, family care/case plan, child's service plan, case plan, care plan, family enhancement agreement or similar document).

Example costs: parenting programs, traditional parenting programs, cultural activities (including land-based), addictions treatment, in-home family support, crisis intervention, life skills, mentorship, costs related to the dissolution of prevention programs that could not be sustained due to funding inequities (i.e. severance, lease costs, etc.), etc. As per the new terms and conditions, services may also be provided to First Nations youth formerly in care after they reach the age of majority pursuant to legislative provisions regarding post-majority care. CHRT claims relating to the reimbursement of prevention expenditures on actuals can include families (incl. youth).

If your social workers' salaries (including benefits, pensions, maternity leave) for prevention were below the Provincial/Yukon standard, or if your Agency budget did not provide funds to hire workers but incurred expenses funded from another source, the cost difference (unpaid) is eligible for reimbursement to meet comparable rates. This includes provisions for stand-by and overtime, remoteness adjustments, for social workers, supervisors and other staff required after-hours service responses for costs incurred.

Staff recruitment incurred costs paid by Recipients in the areas of prevention can be reimbursed as well. For example: relocation costs for newly recruited or transferring staff.

This list of eligible prevention costs is not exhaustive and can be discussed case by case with the ISC Regional Office.

INTAKE AND INVESTIGATION – OPERATIONS *

Intake and Investigation to be reimbursed on actual services where the agency/service reviews and investigates a reported incident of a child at risk in order to develop an understanding of the supports needed for the child and family.

Example costs: if your social workers' salaries (including benefits, pensions, maternity leave) for intake and investigation were below the Provincial/Yukon standard, or if your Agency budget did not provide funds to hire workers but incurred expenses funded from another source, the cost difference (unpaid) is eligible for reimbursement to meet comparable rates. This includes provisions for stand-by and overtime, remoteness adjustments, for social workers, supervisors and other staff required after-hours service responses for costs incurred.

Staff recruitment incurred costs paid by Recipients in the areas of intake and investigation can be reimbursed as well. For example relocation costs for newly recruited or transferring staff.

LEGAL FEES – OPERATIONS *

Legal fees to be reimbursed based on actual costs associated with a child protection case, where the child is still in the home (prevention) or agency operations' costs relating to child welfare (operations).

Example costs: The Department covers legal costs associated with a child (i.e. supervision orders, court orders associated to a child, where applicable), understanding that not all of the children agencies served are in care. Some examples include court-related costs (witness fees, lawyer), adoption fees, birth certificate, notarization. The Department also covers legal services fees and costs related to delegated FNCFS agencies' operations, which includes legal services related to agency business. This could include expenses such as corporate expenses, human resources, incorporation, and delegation negotiations.

Repatriation and travel costs associated with legal proceedings of a child are also eligible for reimbursement.

Note: Legal fees associated with children in care are also being reimbursed by actuals under maintenance reimbursement process.

BUILDING REPAIRS – OPERATIONS *

Building repairs to be reimbursed based on actual costs, including those to bring buildings to a level of compliance with building codes, fire codes, and to meet health and safety standards and those that ensure the continuity or improvements of FNCFS program delivery activities.

Example costs: fire alarm installations/repairs, wheelchair ramps, mold or asbestos remediation, security systems and equipment, heating/cooling system repairs, first aid kits, etc.

CHILD SERVICE PURCHASE AMOUNT *

Child Service Purchase Amount to be reimbursed based on actuals where Recipients did not have sufficient funding in maintenance or prevention.

Example costs: a short-term intervention to support a child at risk, to help keep the child in the family home, crisis intervention to address natural disasters or widespread community risks (i.e. multiple youth suicides).

* Additional bookkeeping / audit costs for all cost categories of this Section 2.2 will be reimbursed.

ANNEX D – 2018-2019 EXCEL RECIPIENT ACTUAL COSTS CLAIM FORM

DESCRIPTION FIELDS AND ACTUAL COSTS EXCEL CLAIM FORM TEMPLATE


This Annex provides instructions to Recipients on how to prepare an *Actual Costs Claim Excel Form* to be submitted to ISC eligible costs for planned or incurred activities / spending.

Section #1 - The Main Cover Page Description Fields

The following is required for this section:

Item	Description
Fiscal Year	2018-2019
Province / Territory	The Province or Territory of the recipient
Recipient Name and Funding Recipient Number	The recipient name and funding recipient number
Section 2: Prevention / Least Disruptive Measures based on need costs (Prevention)	<p>For Sections 2 to 7:</p> <p>Represents the 2018-2019 total advance funding allocation or incurred actual costs needed for the cost category section.</p> <p>Those sections are automatically populated based on the planned or incurred activities / spending total amount of each of the “tab” section of the <i>Actual Costs Excel Claim Form</i>.</p>
Section 3A: Intake and Investigations based on need costs (Operations) – Salaries	
Section 3B: Intake and Investigations based on need costs (Operations) - Other expenditures not related to Salaries	
Section 4: Legal Fees based on need costs (Operations or Prevention)	
Section 5: Building Repairs based on need costs (Operations) for health and safety	
Section 6: Child Service Purchase Amount based on need costs	
Section 7: Small Agencies based on need costs	
2018-2019 Grand Total for Activities/Spending	
Given Name	<p>The given name, family name and position title of a Chief Financial Officer, or Executive Director to serve as the organizational contact.</p> <p>A valid telephone includes the 3 digit area code in the format ###-###-####. A valid email address may be in upper or lower case in the format: test@test.ca</p>
Family name	
Title	
Telephone number	
E-mail address	
Date	

Section #1 - Excel on Actual Costs Claim Form for Main Cover Page:

	Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2018-2019)
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS First Nations Child and Family Services Program (FNCFS)			
<i>Privacy Act Statement</i>			
The personal information you provide to Government of Canada is governed in accordance with the Privacy Act. We only collect the necessary information we need to assess the request for reimbursement. Collection of information for this purpose is authorized under the Department of Indigenous Services. We require this information to process eligible payments of reimbursements and for audit purposes. In accordance with the Privacy Act and the Access to Information Act, individuals have a right to protection of, access to and correction of their personal information. Details on these matters are available at the InfoSource Website at http://infosource.gc.ca			
Province or Territory		Fiscal Year	
<input type="text"/>		<input type="text" value="2018-2019"/>	
Agency Name			
<input type="text"/>			
Funding Recipient Name (Agreement)		Funding Recipient Number	
<input type="text"/>		<input type="text"/>	
FINANCIAL SUMMARY: Claims for Reimbursement of Actual Costs			FY 18-19
			(A)
Section 2: Prevention / Least Disruptive Measures based on actual costs (Prevention)			\$0.00
Section 3A: Intake and Investigations based on actual costs (Operations) - Salaries			\$0.00
Section 3B: Intake and Investigation based on actual costs (Operations) - Other costs Other expenditures not captured based on salaries			\$0.00
Section 4: Legal Fees based on actual costs (Operations or Prevention)			\$0.00
Section 5: Building Repairs based on actual costs (Operations) for health and safety or to ensure the continuity or improvements of FNCFS program delivery activities			\$0.00
Section 6: Child Service Purchase Amount based on actual costs			\$0.00
Section 7: Small Agencies based on actual costs			\$0.00
GRAND TOTAL OF ACTUAL COSTS FOR REIMBURSEMENT			\$0.00
Given Name		Family Name	
<input type="text"/>		<input type="text"/>	
Title		Telephone Number (###-###-####)	
<input type="text"/>		<input type="text"/>	
E-mail address		Date (YYYY-MM-DD)	
<input type="text"/>		<input type="text"/>	
<p><i>Note:</i> In keeping with the January 2016 and subsequent rulings of the Canadian Human Rights Tribunal on First Nations Child and Family Services, the Government of Canada is working with the parties to implement all of the Tribunal's orders. The Department is making changes to these Terms and Conditions to remove references to previous discriminatory funding approaches, and to reflect the most recent Tribunal orders. The Terms and Conditions and other guiding documents will continue to be revised as program reform takes place.</p>			


Section #2 - Prevention/Least disruptive measures (Prevention)

- Claim frequency for the section: one claim amount for 2018-2019 (from April 1, 2018 to March 31, 2019)
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #2	Description
2018-2019 Prevention/Least Disruptive Measures Actual Costs Total Amount	Represents the grand total of all of 2018-2019 planned or incurred activities/spending amounts for the Prevention/Least Disruptive Measures cost category (100% forecast)

Individual Line by Line Item	Description
Activity Description	The description of the Prevention/Least Disruptive Measures planned or incurred activity/spending expenditure
2018-2019 Prevention/Least Disruptive Measure Actual Costs Total	Line by line item of 2018-2019 planned or incurred activity/spending cost category total (100% forecast)
Comment	General comments

 Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2018-2019)						
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS								
Section 2: Prevention / Least Disruptive Measures based on actual costs (Prevention)								
<table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">2018-2019 Prevention/Least Disruptive Measures Actual Costs Total Amount</td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> </tr> </table>			2018-2019 Prevention/Least Disruptive Measures Actual Costs Total Amount			\$0.00		
2018-2019 Prevention/Least Disruptive Measures Actual Costs Total Amount								
\$0.00								
Activity Description	2018-2019 Prevention/Least Disruptive Measures Actual Costs Total	Comment						


Section #3A - Intake and Investigation (Operations) - Salaries

- Claim frequency for the section: one claim amount for 2018-2019 (from April 1, 2018 to March 31, 2019)
- The following is required for this section:

DESCRIPTION FIELDS – SALARIES

Total Claim Amount for Section #3A	Description
2018-2019 Intake and Investigation – Salaries Actual Costs Total Amount	Represents the grand total of all of 2018-2019 planned or incurred activities/spending amounts for the Intake and Investigation - Salaries cost category (100% forecast)

Individual Line by Line Item	Description
Job Title	The title of the job
Job Type	The list of job types which include: Full Time • Part Time • Casual
2018-2019 Intake and Investigation – Salaries Actual Costs Total	Line by line item of planned or incurred 2018-2019 Intake and Investigation – Salaries activity/spending cost category total (100% forecast)
Comment	General comments


		Unclassified (When Completed)			
		(2018-2019)			
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS					
Section 3A: Intake and Investigation based on actual costs (Operations) - Salaries					
<table border="1"> <tr> <td>2018-2019 Intake and Investigation - Salaries Actual Costs Total Amount</td> </tr> <tr> <td>\$0.00</td> </tr> </table>		2018-2019 Intake and Investigation - Salaries Actual Costs Total Amount	\$0.00		
2018-2019 Intake and Investigation - Salaries Actual Costs Total Amount					
\$0.00					
Job Title	Job Type	2018-2019 Intake and Investigation Salary Actual Costs Total	Comment		

Section #3B - Intake and Investigations (Operations) - Others

DESCRIPTION FIELDS – OTHER EXPENDITURES NOT CAPTURED BASED ON SALARIES

Total Claim Amount for Section #3B	Description
2018-2019 Intake and Investigation – Others (not salaries) Actual Costs Total Amount	Represents the grand total of all of 2018-2019 planned or incurred activities/spending amounts for the Intake and Investigation - Others (not salaries) cost category (100% forecast)

Individual Line by Line Item	Description
Activity Description	The description of the Intake and Investigation – Others (not salaries) planned or incurred activity/spending expenditure
2018-2019 Intake and Investigation – Others (not salaries) Actual Costs Total	Line by line item of planned or incurred 2018-2019 activity/spending for Intake and Investigation – Others (not salaries) cost category total (100% forecast)
Comment	General comments

		Unclassified (When Completed) (2018-2019)
<p>ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS Section 3B: Intake and Investigation based on actual costs (Operations) - Other expenditures not captured based on salaries</p>		
2018-2019 Intake and Investigation - Others (Not Salaries) Actual Costs Total Amount		
\$0.00		
Activity Description	2018-2019 Intake and Investigation - Others Actual Costs - Not Salaries Total	Comment


Section #4 - Legal Fees (Operations or Prevention)

- Submission frequency for the section: one claim amount for 2018-2019 (from April 1, 2018 to March 31, 2019)
- Please note: Legal Cost – Child not in Care includes legal costs, where the child is under protection and a case file is open for that specific child.
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #4	Description
2018-2019 Legal Fees Actual Costs Total Amount	Represents the grand total of all of 2018-2019 planned or incurred activities/spending amounts for the Legal Fees cost category (100% forecast)

Individual Line by Line Item	Description
Legal Cost Type	The list of legal cost types which include: <ul style="list-style-type: none"> • Operations: Agency's Operations Legal Fees relating to child welfare • Prevention: Legal Fees for a child protection case, where the child is still at the home
Activity Description	The description of the Legal Fees planned or incurred activity/spending expenditure
2018-2019 Legal Fees Actual Costs Total	Line by line item of planned or incurred 2018-2019 activity/spending for Legal Fees cost category total (100% forecast)
Comment	General comments

 Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2018-2019)
---------------------------------------------------------------------------------------------------------------------	----------------------------	----------------------------------------------

ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS

Section 4: Legal Fees based on actual costs (Operations or Prevention)

- Operations : Agency's operations legal fees relating to child welfare
- Prevention : legal fees for a child protection case, where the child is still in the home

2018-2019 Legal Fees Actual Costs Total Amount			
		\$0.00	
Legal Cost Type (Operation or Prevention)	Activity Description	2018-2019 Legal Fees Actual Costs Total	Comment


Section #5 - Building Repairs (Operations) for health and safety or to ensure the continuity or improvements of FNCFS program delivery activities

- Submission frequency for the section: one claim amount for 2018-2019 (from April 1, 2018 to March 31, 2019)
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #5	Description
2018-2019 Building Repairs Actual Costs Total Amount	Represents the grand total of all of 2018-2019 planned or incurred activities/spending amounts for the Building Repairs cost category (100% forecast)

Individual Line by Line Item	Description
Activity Description	The description of the Building Repairs planned or incurred activity/spending expenditure
2018-2019 Building Repairs Actual Costs Total	Line by line item of planned or incurred 2018-2019 activity/spending for Building Repairs cost category total (100% forecast)
Comment	General comments

 Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2018-2019)
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS		
Section 5: Building Repairs based on actual costs (Operations) for health and safety or to ensure the continuity or improvements of FNCFS program delivery activities		
2018-2019		
Build Repairs Actual Costs Total Amount		
	\$0.00	
Activity Description	2018-2019 Building Repairs Actual Costs Total	Comment


Section #6 - Child Service Purchase Amount

- Submission frequency for the section: one claim amount for 2018-2019 (from April 1, 2018 to March 31, 2019)
Please note: this is not a breakdown of costs per child
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #6	Description
2018-2019 Child Service Purchase Amount - Actual Costs Total Amount	Represents the grand total of all of 2018-2019 planned or incurred activities/spending amounts for the Child Service Purchase Amount cost category (100% forecast)

Individual Line by Line Item	Description
Type	The list of Child Service Purchase Amount types include: <ul style="list-style-type: none"> • Capital • Services
Description	The description of the Child Service Purchase Amount planned or incurred activity/spending expenditure
2018-2019 Child Service Purchase Amount - Actual Costs Total	Line by line item of planned or incurred 2018-2019 activity/spending for Child Service Purchase Amount cost category total (100% forecast)
Comment	General comments

		Unclassified (When Completed) (2018-2019)	
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS Section 6: Child Service Purchase Amount based on actual costs			
2018-2019 Child Service Purchase Amount Actual Costs Total Amount			
		\$0.00	
Type	Description	2018-2019 Child Service Purchase Actual Costs Total	Comment


Section #7 - Small Agencies

- Submission frequency for the section: One claim amount for 2018-2019 (from April 1, 2018 to March 31, 2019)
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #7	Description
2018-2019 Small Agencies Actual Costs Total Amount	Represents the grand total of all of 2018-2019 planned or incurred activities/ spending amounts for the Small Agencies cost category (100% forecast)

Individual Line by Line Item	Description
Description	Brief description of small agency deficit
2018-2019 Small Agencies Actual Costs Total	Line by line item of 2018-2019 planned or incurred activity/ spending for Small Agencies cost category total (100% forecast)
Comment	General comments

 Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2018-2019)
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS		
Section 7: Small Agencies based on actual costs		
2018-2019		
Small Agencies Actual Costs Total Amount		
\$0.00		
Description	2018-2019 Small Agencies Actual Costs Total	Comment

Note:

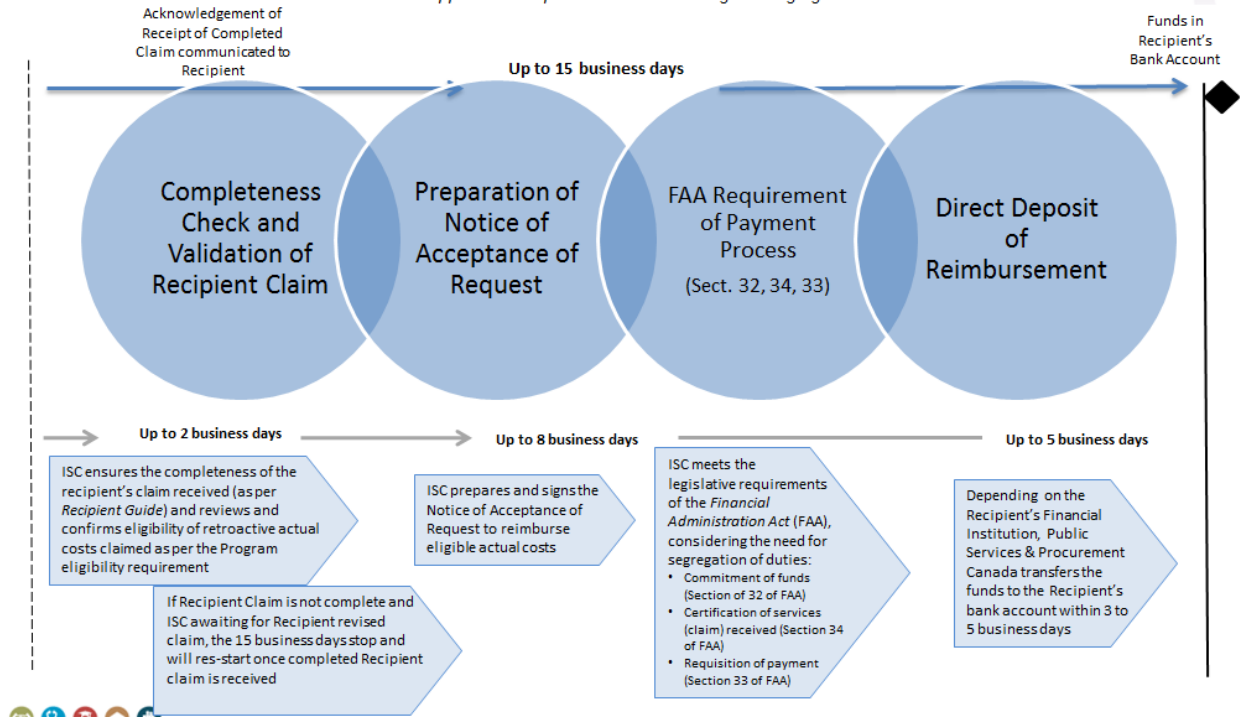
Small agencies can choose to record expenditures using either the Tab #7 for small agencies OR any other available tabs of the *Actual Costs Claim Excel Form* that will calculate automatically to the Cover Page of the Form. ISC is flexible on the approach used by small agencies.

ANNEX E - TIMELINE FOR REIMBURSEMENT OF COSTS



Timeline* for Reimbursement of Actual Costs Claimed by Recipient Resulting from February 1, 2018 Canadian Human Rights Tribunal Orders

*This timeline applies to Recipients under an existing Funding Agreement with ISC



ANNEX F – SECTION 2 OF DCI #1208367: FNCFS ANNUAL REPORT



Section 2: Financial Summary

Recipients funded under the **Prevention Based Approach** are required to provide the following information:

- Current year budget revenues that are in accordance with the funding agreement;
- A budget forecast that outlines revenues and expenditures for the delivery of child and family services in relation to the strategic plan for the current year and projections for the following year.

Revenues	2018-19 Budget Current Year	2019-20 Budget Forecast
INAC		
Administration/Operations		
Maintenance/Protection		
Prevention/Least Disruptive Measures		
Other Sources		
Provincial Government		
Children's Special Allowance		
Child's Disability Benefit/Child Care		
Other		
Total Revenues		
Expenses	2018-19 Budget Current Year	2019-20 Budget Forecast
Program Delivery Services		
Intake, Assessment and Investigation		
Child Protection Services		
Prevention/Least Disruptive Measures		
Supports for Permanency Services		
Total Program Delivery Costs		
Operations		
Core Management		
Financial Administration		
Infrastructure Costs		
Board Governance		
Total Operations		
Total Expenses		
Net Operating Results		

Supporting Documents

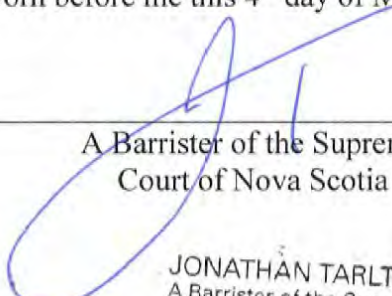
Title	Submission Method
[H]	
[H]	
[H]	
[+] Add a Document	

Declaration

The information provided is accurate to the best of my knowledge.

Given Name		Family Name	
Title		Date (YYYYMMDD)	

This is **Exhibit "2B"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia



**Indigenous
Services Canada**

**Services aux
Autochtones Canada**

FIRST NATIONS CHILD AND FAMILY SERVICES

NATIONAL RECIPIENT GUIDE

**TO SUPPORT THE REIMBURSEMENT OF PREVENTION AND OPERATIONS
BASED ON ACTUAL NEEDS AND COSTS
RESULTING FROM THE
CANADIAN HUMAN RIGHTS TRIBUNAL ORDERS DATED
January 26, 2016, April 26, 2016, September 14, 2016 and February 1, 2018**

January 2020

A decorative graphic on the right side of the page, consisting of overlapping curved shapes in shades of blue, purple, and red, with a small Canadian flag icon integrated into the design.

Canada

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PREAMBLE

On February 1, 2018 the CHRT ordered Canada to fully reimburse First Nations child and family services agencies' costs for prevention/least disruptive measures, intake and investigation, legal fees, building repairs, the child service purchase amount and for small agencies, based on actual needs and on the same basis as the practice for funding maintenance costs (i.e. to fully reimburse actual costs for these services as determined to be in the best interest of the child).

The paragraphs of the February 1, 2018 CHRT decision relating to the reimbursement of eligible actual costs can be found in **Annex A of this document** and the full decision can be found at: <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/308639/index.do?q=fncfs>.

The Government of Canada is committed to working with partners¹ to fully implement the orders of the Canadian Human Rights Tribunal. One of the key aspects of the reform is to make the system child-centered, community-directed and focused on prevention and early intervention. With the Program reform, services under the First Nations Child and Family Services (FNCFS) will be provided on the basis of [substantive equality](#) to address the specific needs and circumstances of First Nations children and families living on-reserve – including their cultural, historical and geographical needs and circumstances – in a manner that accounts for cost drivers related to inflation and increased needs or numbers of children in care and their families.

As part of the reform in December 2018, the Government of Canada established, new enhanced Program Terms and Conditions that:

- expand eligible initiatives and projects funded under the Program, including prevention-based supports and activities;
- introduce the Community Well-being and Jurisdiction Initiatives funding stream; and
- update FNCFS Program outcomes.

¹ To ensure inclusiveness, the term “partners” is not defined and could include First Nations, provincial and territorial governments, national and regional Indigenous organizations, and other Parties to the Tribunal complaint.

1. SCOPE

The purpose of this document is to support Recipients in accessing funding as per the CHRT decision, and to provide them with information on the requirements to be met when preparing payment requests based on actual needs should Recipients' existing budget not be sufficient to cover those costs.

This document applies to Recipients funded under the FNCFS Program to support the delivery of prevention/least disruptive measures services and operations for children and families who ordinarily reside on reserve. This document applies to the reimbursement of actuals resulting from the February 1, 2018 CHRT decision for the following eligible Program costs:

- A. prevention/least disruptive measures;
- B. intake and investigation;
- C. legal fees;
- D. building repairs;
- E. child service purchase amount; and
- F. for small agencies, operational costs based on actual needs (i.e. to fully reimburse actual costs for these services as determined to be in the best interest of the child).

Canada will continue to fund these areas on actuals until an alternative funding methodology has been developed and approved.

A separate guide is available for Band Representative Services in Ontario Region.

2. ELIGIBILITY

2.1 Principles

This section outlines the principles and provides information for FNCFS Recipients to access funding based on actual needs and costs for the **period covering April 1, 2019 to March 31, 2020 (fiscal year 2019-2020)** pursuant to the February 1, 2018 CHRT decision, that respects the current First Nations Child and Family Services (FNCFS) Program authorities² and the Treasury Board Secretariat Policy on Transfer Payments.

The following considerations shall be taken into account in determining the eligibility of project activities and costs:

- the actual cost determined by the Recipient to be in the best interest of the child;
- whether the cost is generally recognized as standard and necessary for the conduct of the activity and essential to achieve the intended results;

² The Government of Canada will continue to work with the Parties to implement CHRT orders. The Terms and Conditions and other guiding documents will continue to be revised as Program reform takes place.

- The restraints and requirements related to such factors as generally accepted accounting principles, arm's length bargaining, federal, provincial and local laws and regulations;
- To ensure substantive equality and the provision of culturally appropriate services, the needs of each individual child and his or her family must be considered and evaluated, in light of their distinct needs and circumstances including their cultural, historical and geographical needs and circumstances, for instance by taking into account any needs that stem from historical disadvantages and the lack of services on-reserve and/or surrounding services; and
- The costs support the objectives of the FNCFS and are related to children and families ordinarily resident on reserve and for children registered under the Indian Act or who are entitled to be registered.

2.2 Eligible Costs resulting from the February 1, 2018 CHRT Decision

Recipients can access additional funding to cover the actual needs and costs to support the delivery of prevention/least disruptive measures services programming and operations under the following circumstances:

- The Recipient's existing budget allocation per the funding agreement is not sufficient to cover the actual needs;
 - Evidence to support the incremental funding is provided (i.e.: Cashflow Forecasts and Multi-Year Plans).
- The expenditures are eligible as per the February 1, 2018 CHRT Decision;
- The costs respect the Program authorities and the federal policy on transfer payments;
- The nature of the activities for which actuals are being claimed are consistent with the principles outlined in Section 3.1.;
- The actuals claimed are not covered by any other sources of funding; and
- The Recipient will not seek a reimbursement of those actuals to any other contributors such as any federal department (including ISC), or provincial, territorial, or municipal government funding.

Pursuant to the February 1, 2018 decision, eligible Program activities and costs are:

- A. prevention/least disruptive measures;
- B. intake and investigation;
- C. legal fees;
- D. building repairs;
- E. child service purchase amount; and
- F. for small agencies, operational costs based on actual needs (i.e. to fully reimburse actual costs for these services as determined to be in the best interest of the child).

A. Prevention/least disruptive measures

On January 26, 2016, the Canadian Human Rights Tribunal described and classified prevention services into three³ main categories:

1. Primary prevention services are aimed at the community as a whole and include the ongoing promotion of public awareness and education on the healthy family and how to prevent or respond to child maltreatment;
2. Secondary prevention services are triggered when concerns begin to arise and early intervention could help avoid a crisis; and
3. Tertiary prevention services target specific families when a crisis or risk to a child have been identified and are designed to be least disruptive measures that attempt to mitigate the risks of separating a child from his or her family, rather than separate the child their family. These services also assist families to address risks so that children in care can be reunified with their families as quickly as possible.

Programming and costs subject to reimbursement and funding under the February 1, 2018 CHRT decision are based on actual needs to implement targeted interventions (as identified in the intake assessment, family service plan, family care/case plan, child's service plan, case plan, care plan, family enhancement agreement or similar document) to address concerns identified and notifications and incidents reported on child maltreatment, abuse and neglect.

Eligible activities and costs must address the protection concerns identified, and notifications reported, and strengthen protective factors to support a child and a family where if no intervention is taken, the child will be at risk of being taken into care. Accordingly, eligible activities and costs support the intent of the FNCFS Program to reduce the number of children in care by addressing the specific needs identified for a child or a family, implementing targeted and concrete actions to mitigate or avoid child maltreatment; and reducing the risk of having the child interacting with the welfare system or being taken into care.

Prior to seeking funding or reimbursement for actuals related to prevention/least disruptive measures, the following types questions could be used to support the planning and or the decision-making process:

- Which risks are identified?
- What intervention is needed to address the risks?
- Which protective factors need to be strengthened or developed?
- In what way(s) the prevention activities address the concerns and risks identified and strengthen protective factors to reduce the incidence of children interacting with the welfare system and being taken into care?
- Is the FNCFS Program the best way to address the risks or strengthen protective factors?
 - If no prevention intervention is taken, then what will be the impact?

³ The reference to the three levels of prevention services is formatted different but verbatim from the CHRT decision, paragraph [116] : <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/308639/index.do?q=fncfs>

- Are there other federal, provincial/territorial, or municipal programs that are better suited to address the needs while not placing the child at a disadvantage?

B. Legal fees

Actual costs associated with a child where the child is still in the home (prevention/least disruptive measures) or agency operations' costs relating to child welfare (operations). Without being limited to, examples of eligible costs include:

- legal services fees and costs related to a delegated First Nations Child and Family Service (FNCFS) agency operations will be reimbursed under operations at actual cost; or
- legal costs associated to a child not covered by other provincial/territorial departments and organizations or other federal departments will be reimbursed at actual cost under maintenance.

C. Building Repairs

Actual costs that bring agency's buildings to a level of compliance with building codes, fire codes, and to meet health and safety standards; and that ensure the continuity or improvements of FNCFS Program delivery activities. Without being limited to, examples of eligible costs include:

- building renovation or repairs to ensure facilities of the agency comply with applicable fire, safety and building codes and regulations. Construction of new buildings is not eligible under Building Repairs.

D. Intake/Investigation

Actual services where the agency/service reviews and investigates a reported incident of a child at risk in order to develop an understanding of the supports needed for the child and family. Examples of eligible costs include staff salary, training, benefits and travel reimbursed at actual cost under operations.

E. Child Service Purchase

Child Service Purchases are reimbursed based on actuals where Recipients did not have sufficient funding in maintenance or prevention. An example of eligible costs could also include psychological services as an intervention to support a child at risk and to help keep the child in the family home.

Additional bookkeeping / audit costs for all categories of this Section are eligible for reimbursement.

F. Small Agencies

Effective April 1, 2018, small agencies are defined as those serving a child population (0-18) of less than 1000.

ISC provides small agencies with an initial allocation (based on the existing funding formula, FNCFS agency business plan, negotiation, etc.) at the beginning of the year.

Where this initial allocation is not sufficient to meet small agencies' needs, ISC will reimburse small agencies' eligible actual costs in all areas similar to how maintenance costs are currently funded by ISC.

For small agencies, all salaries are eligible for actual funding to a level comparable to the provincial wages and benefits for similar positions, both retroactively (back to January 26, 2016) and going forward.

Costs subject to reimbursement could include overtime that staff may have incurred because the agency's budget did not permit the hiring of a full complement of staff. Going forward, overtime will be funded as part of the process to fund actual costs.

These steps to implement the CHRT's orders apply to all salaries, and not only those related to prevention or intake and investigation.

Small agencies are responsible for administering any salary adjustment claims in accordance with federal and provincial payroll rules (Canada Pension Plan, Income tax deductions, etc.).

These steps to implement the CHRT's orders apply to all salaries, and not only those related to prevention or intake and investigation.

3. PAYMENT PROCESS AND SUPPORTING DOCUMENTATION

3.1 Payment Basis

Consistent with the Federal Policy on Transfer Payments (PTP), the FNCFS Program provides flexibility in the context of cash management by supporting different basis of payments, either advance or claim requests:

- claim payments in circumstances where expenditures are incurred for goods and/or services and subsequently reimbursed; or
- advance payments in circumstances where up-front funding is needed by the Recipient to implement activities and achieve the objectives of the project.

Recipients can submit multiple and or simultaneous payment requests.

3.2 Supporting documentation

Regardless of the payment basis, advance or claim requests, Recipients must clearly identify under which CHRT order (s) funding is being sought.

All payment requests submitted seeking incremental funding to cover the actual needs and costs of delivering programming will be reviewed based on the following elements:

- the Recipient's existing budget as set in its contribution agreement is not sufficient to cover the actual needs;
 - evidence to support the payment request is provided (i.e.: Cashflow Forecasts, Up- to Date Incurred Expenditure Level and Multiyear Plan)
- the expenditures are eligible as per the February 1, 2018 CHRT decision;
- the delivery requirements of your contribution agreement;
- the costs respect the Program authorities and the policy on transfer payments;
- the nature of the activities and costs for which actuals are being claimed are essential to achieve the intended results and consistent with the principles outlined in Section 3.1.;
- the actuals claimed are not covered by any other sources of funding; and
- the Recipient will not seek a reimbursement of those actuals to other contributors such as any federal departments (including ISC), or provincial, territorial, or municipal government funding.

3.3 Submission of claim and advance requests – Step by Step

Step 1: Identify your planned or incurred activities' / spending

Identify your 2019-2020 planned or incurred activities that may be eligible for reimbursement when existing funding is not sufficient to cover actual costs.

Step 2: Complete the *Actual Costs Claim Excel Form* template

- This is an Excel spreadsheet that is divided into tabs for each type of expenditure. The first page ("Cover Page") of the spreadsheet will automatically calculate the totals.
- Enter your organization's details on the first page "Cover Page" of the spreadsheet.
- On each tab, use one line to enter a description of the forecasted planned or incurred activity / spending and the full 100% unfunded forecasted amount. Each individual detailed activity line amount will be calculated automatically at the top left of each cost category page (in each tab).
- Then, all totals of each tab will be reported automatically on the Cover Page for reimbursement.

Step 3: Submit your Actual Costs Claim

- Submit the *Actual Costs Claim Excel Form* to the ISC Regional Office.

Annex B of this document provides a description of the required fields under the Form template and instructions to Recipients on how to prepare an Actual Costs Claim Excel Form to be submitted to ISC eligible costs for planned or incurred activities / spending. The template "Actual Costs Claim Excel Form", which is explained above in detail, is the standard document that

should be used for submission.

3.4 Completeness and Complexity

When a payment request (advance/claim) is submitted, an initial validation will be completed to ensure completeness. In circumstances where the payment request is incomplete (e.g., pages missing, missing certification signature, miscalculation), ISC will send an acknowledgement notice to the Recipient by email requesting the missing information and advising that the 15 business-day timeline payment process will start when the information requested is received and the payment request is considered complete.

In accordance to the PTP, ISC must perform due diligence when reviewing payment requests to ensure compliance from the policy and financial perspectives. Therefore, it is possible that additional details or clarifications may be needed on items included in payment requests to confirm the validity, the reasonableness and the eligibility of the costs being claimed for reimbursement. In such circumstance, evidence may be requested in a form of documents such as invoices, quotes, proposals, financial documentation, cashflow of forecasts, multiyear community planning, timesheets, provincial salary grid, and so on.

ISC would contact the Recipient by email requesting additional information and to advise that the 15 business-day timeline payment process has stopped and will resume once all information is provided. This process ensures Recipients are provided with sufficient time to respond and provide the information needed to complete the review. ISC will communicate as rapidly as possible with Recipients to ensure that funding is released in an efficient and timely manner.

In accordance with contribution agreements, Recipients must keep track of all expenditures, advances and claims as all funded projects are subject to monitoring and audits.

Supportive documentation is required for Canada to meet its financial accountability requirements; however, should there not be an invoice or receipt, the Department will work with the requestor to complete a declaration and/or identify some other form of documentation to process the claim (e.g., existing audited financial statements, general ledgers, email confirmation from suppliers or an attestation, etc.).

Should additional guidance or clarifications be needed, Recipients are encouraged to communicate with the FNCFS representatives in ISC's Regional Office.

3.5 Payment request, notifications and timelines

Since Recipients are under an existing funding agreement with ISC, Regional Officers may have to send a Notice of Acceptance of Request (NAR) to Recipients to issue payments once the completed claim has been received and the requirements under this Guide have been met.

No signature by the Recipient is required on the NAR to issue payment.

Annex C of this document provides an overview of timelines for the reimbursement of actual costs. ISC will make every effort to ensure that the administrative burden is

reduced to expedite the reimbursement of claims to Recipients.

ISC will ensure that payments to funding Recipients are processed in a timely, prudent, and efficient manner. In regards to incurred actual costs, ISC will reimburse 100% of the eligible actuals claimed; for the advance requests, ISC will work with Recipients to ensure that instalments adequately support the implementation of the planned activities.

Once the Recipients' payment requests have been submitted and accepted by ISC for payment, ISC will issue an electronic deposit funds transfer.

4. FUNDING AGREEMENTS

Funding agreements set out the Program delivery requirements describing the nature and type of FNCFS costs that are eligible for reimbursement.

Notwithstanding the funding agreement provisions where fixed funding is provided (i.e. any amount that the Recipient spends that is more than the maximum FIXED amount for the Program, service or activity for the specified fiscal year is the responsibility of the Recipient), as per the CHRT decision, eligible activities and costs based on actual needs must be reimbursed by ISC.

Consistent with the funding agreement provisions related to funding, budget and cashflow adjustments, the Notice of Acceptance of Request (NAR) supports the payment process enabling ISC to issue payments in cases where the initial budget allocation of a funding agreement require an upward budget amendment to issue payments.

5. REPORTING REQUIREMENTS

In accordance with the federal Policy on Transfer Payments, Recipients have obligations to report on funding and must comply with the requirements outlined in funding agreements.

If, at the end of a fiscal year, Recipients have unexpended funding, carry-overs to the next fiscal year are possible as per funding agreements.

In such circumstance, Recipients must inform ISC within 120 days after the end of a fiscal year and provide evidence and documentation on the unexpended funding and a plan outlining the details and activities on how funds will be expended. Accordingly, carry-overs of funding are conditional and must be approved by ISC.

It is the Recipients' responsibility to keep and maintain books of accounting and other records in which all receipts and disbursements, in relation to the eligible costs, are recorded.

Recipients will continue to be accountable to report using CPA Canada Standards, Guidelines etc. For example, adherence to Generally Accepted Accounting Principles – Matching Principle – where revenues and costs can be matched appropriately to leave a clear audit trail and ensure that costs are not reimbursed more than once.

6. IMELINES AND KEY DATES

Key dates in relation to payment processing are the following:

- Retroactive claims seeking a reimbursement for actuals are receivable until December 31, 2019.
- Payment requests seeking the reimbursement of actuals are receivable until September 30, 2020.
- Audited financial reports must be submitted to ISC by July 30th each fiscal year.

7. ESCALATION PROCESS

As discussed with the Parties, the Department provides an escalation process for CHRT payment requests in the event that the validity or the eligibility of activities or costs included in payment requested are questioned as per the Program authorities. In such circumstances, the payment request could be referred as complex⁴ and would require additional review for timely resolution. Where appropriate, a formal decision from the delegated authority, could be sought through the submission of an Escalation Resolution Form.

In the event that a decision is taken not to reimburse, or to reimburse only a portion of the actuals claimed, NHQ will advise the Recipient with a written communication. Communication will include information on the FNCFS appeals process, including appeal documentation.

Recipients have the right to appeal full or partial denials. The Recipient will be required to fill out a Notice of Appeal form and email to: aadnc.sefpn-fncfs.aandc@canada.ca or mail to:

ATTN: FNCFS PROGRAM APPEAL
10 Rue Wellington, Gatineau, Québec,
K1A 0J9

Appeals must be made within 90 days of the date of the decision.

8. APPEAL PROCESS

ISC has developed an escalation resolution protocol for CHRT payment requests and appeal processes in consultation with the Parties.

⁴ In the context of the FNCFS, complexity refers to questions or issues raised on items included in payment requests, which could relate to the reasonableness, validity or eligibility of activities and costs as per the Program authorities.

Recipients have the right to appeal decisions on full or partial denials within a 90-day period.

Documents and appeal request templates will be provided by the Department when the decisions are communicated. Final decisions are taken and communicated by the Board of Appeals.

9. CONTACT INFORMATION

For additional information on how to process claims or for assistance completing the forms, please contact your ISC Regional Office representatives.

10. NOTES TO READERS

This document does not limit or prejudice in any manner any right or discretion of the Minister, the Minister's representatives, the Auditor General of Canada, or anyone acting on behalf of the Auditor General of Canada, including, without limitation or prejudice to the generality of the foregoing, any of their rights or discretion under the funding agreements to request and obtain from Recipients or third parties information or documents in addition to, or different from, those specified herein. ISC commits to notifying Recipients and the Parties in writing of any changes within the Guide as they may occur.

Throughout the document, the term "Recipient" refers to existing pre-delegated/pre-designated and delegated/designated FNCFS agencies (including Tribal Councils and First Nation Bands) eligible to enter into a funding agreement or having an existing funding agreement with ISC.

FEBRUARY 1, 2018 CHRT PARAGRAPHS

The following are the paragraphs of the February 1, 2018 CHRT Decision relating to the reimbursement of eligible actual costs:

CHILD SERVICE PURCHASE AMOUNT:

[416] *The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to develop an alternative system for funding **child service purchase amount services** for First Nations children and families on-reserve and in the Yukon, based on actual needs, which operates on the same basis as INAC's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFC agencies to be in the best interests of the child and develop and implement the methodology including an accountability framework in consultation with AFN, the Caring Society, the Commission, the COO and the NAN (see protocol order below), by **April 2, 2018** and report back to the Panel by **May 3, 2018**.*

[417] *The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to cease its discriminatory funding practice of not fully funding the costs of **child service purchase amount**. In order to ensure proper data collection and to be responsive to the real needs of First Nations children and families, the Panel orders Canada, to provide funding on actual costs for child service purchase amount in child welfare, to be reimbursed retroactive to January 26, 2016 by **April 2, 2018**. This order complements the order above.*

SMALL AGENCIES:

[420] *The Panel, pursuant to Section 53 (2) (a) of the CHRA orders Canada, pending long term reform of its National FNCFS Program funding formulas and models, to eliminate that aspect of its funding formulas/models that creates an incentive resulting in the unnecessary apprehension of First Nations children from their families and/or communities. To this effect, and pursuant to Section 53 (2) (a) of the CHRA, the Panel orders Canada **to develop an alternative system for funding small First Nations agencies based on actual needs which operates on the same basis as INAC's current funding practices for funding child welfare maintenance costs**, that is, by fully reimbursing actual costs for these services, as determined by the FNCFC agencies to be in the best interests of the child and develop and implement the methodology including an accountability framework in consultation with AFN, the Caring Society, the Commission, the COO and the NAN (see protocol order below), by **April 2, 2018** and report back to the Panel by **May 3, 2018**.*

[421] *The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to cease its discriminatory funding practice of not fully funding the small First Nations agencies' costs. In order to ensure proper data collection, and to respond to the real needs of First Nations children, the Panel orders Canada to provide funding on actual costs small First Nations agencies, to be reimburse retroactive to January 26, 2016 by **April 2, 2018**. This order compliments the order above.*

PREVENTION/LEAST DISRUPTIVE MEASURES. BUILDING REPAIRS. INTAKE AND INVESTIGATIONS AND LEGAL FEES:

[410] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada, pending long term reform of its National FNCFS Program funding formulas and models, to eliminate that aspect of its funding formulas/models that creates an incentive resulting in the unnecessary apprehension of First Nations children from their families and/or communities. To this effect, and pursuant to Section 53 (2) (a) of the CHRA, the Panel orders INAC to develop an alternative system for funding prevention/least disruptive measures, intake and investigation, legal fees, and building repairs services for First Nations children and families on-reserve and in the Yukon, based on actual needs which operates on the same basis as INAC's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFC agencies to be in the best interests of the child and develop and implement the methodology including an accountability framework in consultation with the AFN, the Caring Society, the Commission, the COO and the NAN (see protocol order below), **by April 2, 2018** and report back to the Panel **by May 3, 2018**.

[411] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to cease its discriminatory funding practice of not fully funding the costs of **prevention/least disruptive measures, building repairs, intake and investigations and legal fees**. In order to ensure proper data collection and to be responsive to the real needs of First Nations children, the Panel orders Canada, to provide funding on actual costs for least disruptive measures/prevention, building repairs, intake and investigations and legal fees in child welfare to be reimbursed retroactive to January 26, 2016 **by April 2, 2018**. This order complements the order above.

2019-2020 PAYMENT REQUEST FORM FOR RECIPIENTS

DESCRIPTION FIELDS AND PAYMENT REQUEST EXCEL TEMPLATE

This Annex provides instructions to Recipients on how to prepare a *Payment Request Excel Form* (Advance and Claim) to be submitted to ISC eligible costs for planned or incurred activities / spending.


Section #1 - The Main Cover Page Description Fields

The following is required for this section:

Item	Description	
Fiscal Year	2019-2020	
Province / Territory	The Province or Territory of the Recipient	
Recipient Name and Funding Recipient Number	The Recipient name and funding Recipient number	
Section 2: Prevention / Least Disruptive Measures based on need costs (Prevention)	<p>For Sections 2 to 7:</p> <p>Represents the 2019-2020 total advance funding allocation or incurred actual costs needed for the cost category section.</p> <p>Those sections are automatically populated based on the planned or incurred activities / spending total amount of each of the “tab” section of the Payment Request <i>Excel Form</i>.</p>	
Section 3A: Intake and Investigations based on need costs (Operations) – Salaries		
Section 3B: Intake and Investigations based on need costs (Operations) - Other expenditures not related to Salaries		
Section 4: Legal Fees based on need costs (Operations or Prevention)		
Section 5: Building Repairs based on need costs (Operations) for health and safety		
Section 6: Child Service Purchase Amount based on need costs		
Section 7: Small Agencies based on need costs		
2019-2020 Grand Total for Activities/Spending		Represents the 100% forecast total amount of ALL planned or incurred activities/spending for advance funding allocation based on need costs. This section is automatically populated based on the grand expenditure total of all sections.
Given Name		The given name, family name and position title of a

Family name	Chief Financial Officer, or Executive Director to serve as the organizational contact. A valid telephone includes the 3 digit area code in the format ###-###-####. A valid email address may be in upper or lower case in the format: <u>test@test.ca</u>
Title	
Telephone number	
E-mail address	
Date	

Section #1 - Excel on Actual Costs Claim Form for Main Cover Page:

		Unclassified (When Completed) (2019-2020)	
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS First Nations Child and Family Services Program (FNCFS)			
Privacy Act Statement The collection, use and disclosure of your personal information is required to assess your request for reimbursement and is derived from the <i>Department of Indigenous Services Act</i> . We will collect, use and disclose your personal information in accordance with the <i>Privacy Act</i> . Information we have collected about you will be used to process eligible payments of reimbursements and for audit purposes. For more information, refer to the personal information bank AANDC PPU 210 First Nation Child and Family Services at infosource.gc.ca . You have the right to access personal information that we hold about you and to request correction of erroneous personal information. To notify us about incorrect information email aandc_atiprequest-aiprpdemande_aandc@canada.ca or call 819-997-8277. For more information on privacy issues and the <i>Privacy Act</i> in general, you can consult the Privacy Commissioner at 1-800-282-1376. By submitting your claim form, we are authorized to disclose the information submitted with this application in accordance with subsection 8(2) of the <i>Privacy Act</i> (for example, pursuant to an order from a court or Tribunal that compels the production of such information).			
Province or Territory <input type="text"/>		Fiscal Year 2019-2020	
Agency Name <input type="text"/>			
Funding Recipient Name (Agreement) <input type="text"/>		Funding Recipient Number <input type="text"/>	
FINANCIAL SUMMARY: Claims for Reimbursement of Actual Costs			
			FY 19-20
			(A)
Section 2: Prevention / Least Disruptive Measures based on actual costs (Prevention)			\$0.00
Section 3A: Intake and Investigations based on actual costs (Operations) - Salaries			\$0.00
Section 3B: Intake and Investigation based on actual costs (Operations) - Other costs Other expenditures not captured based on salaries			\$0.00
Section 4: Legal Fees based on actual costs (Operations or Prevention)			\$0.00
Section 5: Building Repairs based on actual costs (Operations) for health and safety or to ensure the continuity or improvements of FNCFS program delivery activities			\$0.00
Section 6: Child Service Purchase Amount based on actual costs			\$0.00
Section 7: Small Agencies based on actual costs			\$0.00
GRAND TOTAL OF ACTUAL COSTS FOR REIMBURSEMENT			\$0.00
DECLARATION: The information provided is accurate to the best of my knowledge.			
Signature of Representative of Agency X		Date (YYYY-MM-DD)	
Name of Representative (Print) <input type="text"/>			
Title		Telephone Number (###-###-####)	
E-mail address <input type="text"/>			
Note: In keeping with the January 2016 and subsequent rulings of the Canadian Human Rights Tribunal on First Nations Child and Family Services, the Government of Canada is working with the parties to implement all of the Tribunal's orders. The Department has updated the Terms and Conditions to remove references to previous discriminatory funding approaches, and to reflect the most recent Tribunal orders. The Terms and Conditions and other guiding documents will continue to be revised as program reform takes place.			


Section #2 - Prevention/Least disruptive measures (Prevention)

- Claim frequency for the section: one claim amount for 2019-2020 (from April 1, 2019 to March 31, 2020)
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #2	Description
2019-2020 Prevention/Least Disruptive Measures Actual Costs Total Amount	Represents the grand total of all of 2019-2020 planned or incurred activities/spending amounts for the Prevention/Least Disruptive Measures cost category (100% forecast)

Individual Line by Line Item	Description
Activity Description	The description of the Prevention/Least Disruptive Measures planned or incurred activity/spending expenditure
2019-2020 Prevention/Least Disruptive Measure Actual Costs Total	Line by line item of 2019-2020 planned or incurred activity/spending cost category total (100% forecast)
Comment	General comments

 Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2019-2020)
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS		
Section 2: Prevention / Least Disruptive Measures based on actual costs (Prevention)		
2019-2020 Prevention/Least Disruptive Measures Actual Costs Total Amount		
\$0.00		
Activity Description	2019-2020 Prevention/Least Disruptive Measures Actual Costs Total	Comment


Section #3A - Intake and Investigation (Operations) - Salaries

- Claim frequency for the section: one claim amount for 2019-2020 (from April 1, 2019 to March 31, 2020)
- The following is required for this section:

DESCRIPTION FIELDS – SALARIES

Total Claim Amount for Section #3A	Description
2019-2020 Intake and Investigation – Salaries Actual Costs Total Amount	Represents the grand total of all of 2019-2020 planned or incurred activities/spending amounts for the Intake and Investigation - Salaries cost category (100% forecast)

Individual Line by Line Item	Description
Job Title	The title of the job
Job Type	The list of job types which include: Full Time • Part Time • Casual
2019-2020 Intake and Investigation – Salaries Actual Costs Total	Line by line item of planned or incurred 2019-2020 Intake and Investigation – Salaries activity/spending cost category total (100% forecast)
Comment	General comments

 Services aux Autochtones Canada / Indigenous Services Canada				Unclassified (When Completed) (2019-2020)
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS				
Section 3A: Intake and Investigation based on actual costs (Operations) - Salaries				
2019-2020 Intake and Investigation - Salaries Actual Costs Total Amount				
Job Title	Job Type	2019-2020 Salary Actual Costs Total	Comment	

Section #3B - Intake and Investigations (Operations) - Others

DESCRIPTION FIELDS – OTHER EXPENDITURES NOT CAPTURED BASED ON SALARIES

Total Claim Amount for Section #3B	Description
2019-2020 Intake and Investigation – Others (not salaries) Actual Costs Total Amount	Represents the grand total of all of 2019-2020 planned or incurred activities/spending amounts for the Intake and Investigation - Others (not salaries) cost category (100% forecast)

Individual Line by Line Item	Description
Activity Description	The description of the Intake and Investigation – Others (not salaries) planned or incurred activity/spending expenditure
2019-2020 Intake and Investigation – Others (not salaries) Actual Costs Total	Line by line item of planned or incurred 2019-2020 activity/spending for Intake and Investigation – Others (not salaries) cost category total (100% forecast)
Comment	General comments

ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS
Section 3B: Intake and Investigation based on actual costs (Operations) -
Other expenditures not captured based on salaries

2019-2020 Intake and Investigation - Others (Not Salaries) Actual Costs Total Amount		
\$0.00		
Activity Description	2019-2020 Intake and Investigation - Others Actual Costs - Not Salaries Total	Comment


Section #4 - Legal Fees (Operations or Prevention)

- Submission frequency for the section: one claim amount for 2019-2020 (from April 1, 2019 to March 31, 2020)
- Please note: Legal Cost – Child not in Care includes legal costs, where the child is under protection and a case file is open for that specific child.
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #4	Description
2019-2020 Legal Fees Actual Costs Total Amount	Represents the grand total of all of 2019-2020 planned or incurred activities/spending amounts for the Legal Fees cost category (100% forecast)

Individual Line by Line Item	Description
Legal Cost Type	The list of legal cost types which include: <ul style="list-style-type: none"> • Operations: Agency's Operations Legal Fees relating to child welfare • Prevention: Legal Fees for a child protection case, where the child is still at the home
Activity Description	The description of the Legal Fees planned or incurred activity/spending expenditure
2019-2020 Legal Fees Actual Costs Total	Line by line item of planned or incurred 2019-2020 activity/spending for Legal Fees cost category total (100% forecast)
Comment	General comments

		Unclassified (When Completed) (2019-2020)			
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS					
Section 4: Legal Fees based on actual costs (Operations or Prevention)					
- Operations : Agency's operations legal fees relating to child welfare					
- Prevention : legal fees for a child protection case, where the child is still in the home					
<table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">2019-2020 Legal Fees Actual Costs Total Amount</td> </tr> <tr> <td style="text-align: right;">\$0.00</td> </tr> </table>		2019-2020 Legal Fees Actual Costs Total Amount	\$0.00		
2019-2020 Legal Fees Actual Costs Total Amount					
\$0.00					
Legal Cost Type (Operation or Prevention)	Activity Description	2019-2020 Legal Fees Actual Costs Total	Comment		


Section #5 - Building Repairs (Operations) for health and safety or to ensure the continuity or improvements of FNCFS Program delivery activities

- Submission frequency for the section: one claim amount for 2019-2020 (from April 1, 2019 to March 31, 2020)
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #5	Description
2019-2020 Building Repairs Actual Costs Total Amount	Represents the grand total of all of 2019-2020 planned or incurred activities/spending amounts for the Building Repairs cost category (100% forecast)

Individual Line by Line Item	Description
Activity Description	The description of the Building Repairs planned or incurred activity/spending expenditure
2019-2020 Building Repairs Actual Costs Total	Line by line item of planned or incurred 2019-2020 activity/ spending for Building Repairs cost category total (100% forecast)
Comment	General comments

	Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2019-2020)
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS			
Section 5: Building Repairs based on actual costs (Operations) for health and safety or to ensure the continuity or improvements of FNCFS program delivery activities			
2019-2020			
Build Repairs Actual Costs Total Amount			
		\$0.00	
Activity Description	2019-2020 Building Repairs Actual Costs Total	Comment	

Section #6 - Child Service Purchase Amount

- Submission frequency for the section: one claim amount for 2019-2020 (from April 1, 2019 to March 31, 2020)
Please note: this is not a breakdown of costs per child
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #6	Description
2019-2020 Child Service Purchase Amount - Actual Costs Total Amount	Represents the grand total of all of 2019-2020 planned or incurred activities/spending amounts for the Child Service Purchase Amount cost category (100% forecast)

Individual Line by Line Item	Description
Type	The list of Child Service Purchase Amount types include: <ul style="list-style-type: none"> Capital Services
Description	The description of the Child Service Purchase Amount planned or incurred activity/spending expenditure
2019-2020 Child Service Purchase Amount - Actual Costs Total	Line by line item of planned or incurred 2019-2020 activity/ spending for Child Service Purchase Amount cost category total (100% forecast)
Comment	General comments

ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS

Section 6: Child Service Purchase Amount based on actual costs

2019-2020 Child Service Purchase Amount Actual Costs Total Amount			
	\$0.00		
Type	Description	2019-2020 Child Service Purchase Actual Costs Total	Comment


Section #7 - Small Agencies

- Submission frequency for the section: One claim amount for 2019-2020 (from April 1, 2019 to March 31, 2020)
- The following is required for this section:

DESCRIPTION FIELDS

Total Claim Amount for Section #7	Description
2019-2020 Small Agencies Actual Costs Total Amount	Represents the grand total of all of 2019-2020 planned or incurred activities/ spending amounts for the Small Agencies cost category (100% forecast)

Individual Line by Line Item	Description
Description	Brief description of small agency deficit
2019-2020 Small Agencies Actual Costs Total	Line by line item of 2019-2020 planned or incurred activity/ spending for Small Agencies cost category total (100% forecast)
Comment	General comments

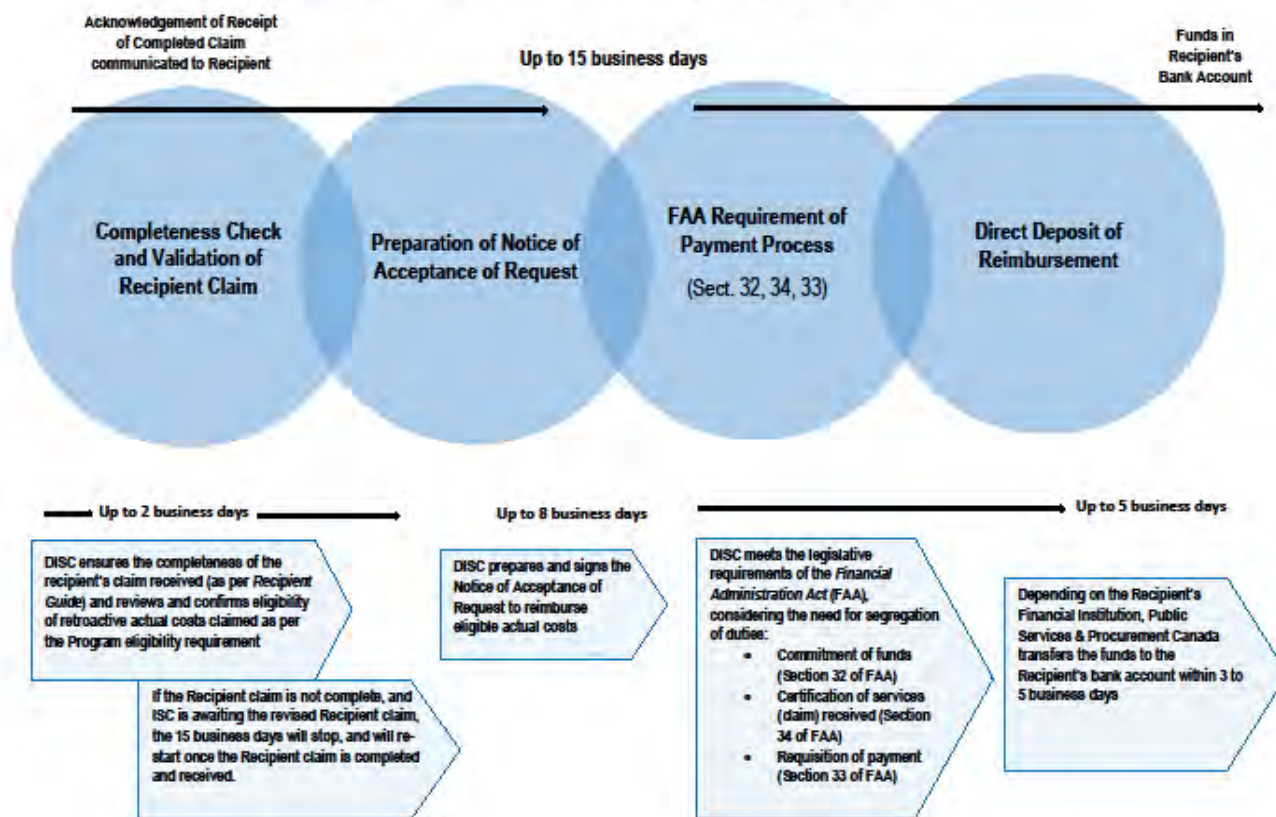
 Services aux Autochtones Canada	Indigenous Services Canada	Unclassified (When Completed) (2019-2020)
ACTUAL COSTS CLAIM FORM FOR REIMBURSEMENT OF ELIGIBLE COSTS Section 7: Small Agencies based on actual costs		
2019-2020 Small Agencies Actual Costs Total Amount		
\$0.00		
Description	2019-2020 Small Agencies Actual Costs Total	Comment

Note:

Small agencies can choose to record expenditures using either the Tab #7 for small agencies OR any other available tabs of the *Actual Costs Claim Excel Form* that will calculate automatically to the Cover Page of the Form. ISC is flexible on the approach used by small agencies.

TIMELINE FOR REIMBURSEMENT OF COSTS

Timeline* for Reimbursement of Retroactive Actual Costs Claimed by Recipient
 Resulting from February 1, 2018 Canadian Human Rights Tribunal Orders
 *This timeline applies to Recipients under an existing Funding Agreement with DISC





Indigenous Services
Canada

Services aux Autochtones
Canada

DCI 1208367 (2019-2020)
Page 2 of 2

Section 2: Financial Summary

Recipients funded under the **Prevention Based Approach** are required to provide the following information:

- Current year budget revenues that are in accordance with the funding agreement;
- A budget forecast that outlines revenues and expenditures for the delivery of child and family services in relation to the strategic plan for the current year and projections for the following year.

Revenues	2019-20 Budget Current Year	2020-21 Budget Forecast
Indigenous Services Canada		
Administration/Operations		
Maintenance/Protection		
Prevention/Least Disruptive Measures		
Other Sources		
Provincial Government		
Children's Special Allowance		
Child's Disability Benefit/Child Care		
Other		
Total Revenues		
Expenses	2019-20 Budget Current Year	2020-21 Budget Forecast
Program Delivery Services		
Intake, Assessment and Investigation		
Child Protection Services		
Prevention/Least Disruptive Measures		
Supports for Permanency Services		
Total Program Delivery Costs		
Operations		
Core Management		
Financial Administration		
Infrastructure Costs		
Board Governance		
Total Operations		
Total Expenses		
Net Operating Results		

Supporting Documents (if applicable)

Title	Submission Method
<input type="text"/>	<input type="text"/>
<input type="button" value="Add a Document"/>	

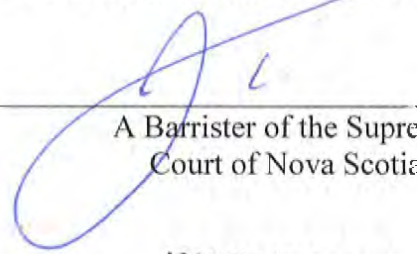
Declaration

The information provided is accurate to the best of my knowledge.

Given Name <input type="text"/>		Family Name <input type="text"/>	
Title <input type="text"/>			Date (YYYYMMDD) <input type="text"/>



This is **Exhibit "3"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.

A handwritten signature in blue ink, consisting of a large loop followed by a smaller loop and a short horizontal stroke.

A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARTAGLIA
A Barrister of the Supreme
Court of Nova Scotia



ONTARIO REGION GUIDE
FOR REIMBURSEMENT OF 2018-2019
FIRST NATIONS CHILD AND FAMILY SERVICES (FNCFS)
BAND REPRESENTATIVE SERVICES ACTUAL COSTS RESULTING
FROM THE CANADIAN HUMAN RIGHTS TRIBUNAL ORDERS DATED
January 26, 2016, April 26, 2016, September 14, 2016 and February 1, 2018

Note to Readers

On February 1, 2018, the Canadian Human Rights Tribunal (2018 CHRT 4) ordered Canada to fully reimburse Band Representative Services for Ontario Region First Nations, Tribal Councils or First Nations Child and Family Services agencies based on actual needs and on the same basis as the practice for funding maintenance costs (i.e. to fully reimburse actual costs for these services as determined to be in the best interest of the child as determined by the Band Representative).

Canada will continue to fund these areas on actuals until an alternative system/approach has been developed and implemented.

The purpose of this document is to support Recipients in accessing funding as per the Canadian Human Rights Tribunal (CHRT) decision 2018 CHRT 4 (the Decision) and to provide Recipients with information on the standard requirements to be met when preparing claims for reimbursement of 2018-2019 eligible Band Representative Services actual costs should Recipients' existing budget not be sufficient to cover those costs. The two types of funding approaches for reimbursement are either advance claims or claims for reimbursing incurred eligible actual costs.

Throughout the document, the term Recipient refers to Ontario Region First Nations, Tribal Councils or pre-designated/pre-delegated and designated/delegated FNCFS Agencies eligible to enter into a funding agreement or having an existing agreement with the Department of Indigenous Services Canada (ISC) (formerly known as Indigenous and Northern Affairs Canada (INAC)).

This document does not limit or prejudice in any manner any right or discretion of the Minister, the Minister's representatives, the Auditor General of Canada, or anyone acting on behalf of the Auditor General of Canada, including, without limitation or prejudice to the generality of the foregoing, any of their rights or discretion under the Funding Agreements to request and obtain from Recipients or third parties information or documents in addition to, or different from, those specified herein. ISC commits to notifying Recipients in writing of any changes within the Guide as they may occur.

November 9th, 2018



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1. PREAMBLE

The paragraph of the February 1st, 2018 CHRT Decision relating to the reimbursement of Band Representative Services eligible actual costs is as follows:

*[427] The Panel, pursuant to Section 53 2 (a) and (b) of the CHRA, orders Canada to fund **Band Representative Services for Ontario** First Nations, Tribal Councils or First Nations Child and Family Services Agencies at the actual cost of providing those services, retroactively to January 26, 2016 by February 15, 2018 or within 15 business days after receipt of the documentation of expenses and **until such time as studies have been completed or until a further order of the Panel.***

The full decision can be found at: fncaringsociety.com/sites/default/files/2018%20CHRT%204.pdf.

2. 2018-2019 ELIGIBLE COSTS REIMBURSEMENT

This section outlines the principles and provides information on the reimbursement for 2018-2019 Band Representative Services eligible actual costs claims, pursuant to the CHRT Decision, that respects the current First Nations Child and Family Services (FNCFS) program authorities¹ and the Treasury Board Secretariat Policy on Transfer Payments.

Annex A of this document includes the text of the letters sent by Indigenous Services Canada (ISC) to Recipients on February 1st, 2018 for retroactive reimbursement. Canada will continue to fund these areas on actuals until an alternative system/approach has been developed and implemented.

2.1 Principles

The following considerations shall be taken into account in determining the costs:

- The actual cost determined by the Recipient to be in the best interest of the child as determined by the Band Representative;
- Whether the cost is generally recognized as normal and necessary for the conduct of the activity;
- The restraints and requirements related to such factors as generally accepted accounting principles, arm's length bargaining, federal, provincial and local laws and regulations; and
- Ensure substantive equality and the provision of culturally appropriate services, the needs of each individual child and his or her family must be considered and evaluated, in light of their distinct needs and circumstances including their cultural, historical and geographical needs and circumstances, for instance by taking into account any needs that stem from historical disadvantage and the lack of on-reserve and/or surrounding services.

¹In keeping with the January 2016 Decision and subsequent rulings of the Canadian Human Rights Tribunal on First Nations Child and Family Services, the Government of Canada is working with the parties to implement all of the Tribunal's orders. The Department is making changes to the program authorities to remove references to previous discriminatory funding approaches, and to reflect the most recent Tribunal orders. The Terms and Conditions and other guiding documents will continue to be revised as program reform takes place. ISC will work with the parties to develop a Framework/Directive for ensuring the program is applying a substantive equality lens.

There are two types of actual cost claims' funding approaches for reimbursement (either advance claims or claims for reimbursing incurred eligible actual costs).

The purpose of the advance on actual costs claim for planned activities/spending is to reimburse actual costs for which Recipients will not seek reimbursement from any federal department (including ISC), or provincial, territorial or municipal government funding, if known by the recipient.

The purpose of reimbursing for unforeseen or unplanned incurred actual costs' claims is to reimburse actual costs not already covered by any federal department (including ISC), or provincial, territorial, or municipal government funding.

2.2 2018-2019 Eligible Costs for All Recipients “Band Representative Services for Payment for Actual Costs Claim”

For 2018-2019, ISC will be providing Recipients with a funding advance or reimbursement of incurred costs payment for eligible activities, such as:

Salary and benefits (including the hiring of Assistant/Clerk to assist with intake, file organization, etc.); Per diem and honorarium payments; Travel costs for Band Representatives and family members (e.g. accommodations, meals, flights, taxis); Dues, Subscriptions, Licenses, Memberships costs; Remoteness costs; Client transportation (non-medical) costs; Repatriation Costs; Recruitment Costs; Training Costs; Professional Development; Professional assessments (such as parental capacity assessments); Mentorship costs; Office supplies and computer/IT costs (e.g. stationary, office supplies, supplies purchased to perform job i.e. paint for a painting job, some computer and software costs i.e. invoicing software); Office rent costs; Insurance costs; Administrative support costs; Legal and associated costs; Communication costs; Advertising and Promotions; Mobile phone costs; Long-distance telephone costs; Business land line; Post/Courier costs; Home Office costs (e.g. utilities, mortgage interest if owned, rent if not owned, repairs and maintenance, property taxes, insurance); Family support services costs; Court fees, disbursements and court-ordered costs related to child protection cases and other costs that may be eligible to be reimbursed.

Costs will be reimbursed for Band Representatives Services for Ontario First Nation Children that are out of province of Ontario, or even out of country.

Additional bookkeeping/audit fees related to the payment for Band Representative Services are also reimbursed as either advance funding allocation or reimbursement of incurred costs.

This list of Band Representative Services costs is not exhaustive and can be discussed on a case by case with the Ontario ISC Regional Office.

Note: Capital costs are currently under discussion in the new Terms and Conditions.

See Annex B of this document for additional information on eligible activities/services and responsibilities of Band Representatives.

3. PROCESS FOR REIMBURSEMENT OF ELIGIBLE COSTS BASED ON FUNDING ALLOCATION FOR PLANNED OR INCURRED BAND REPRESENTATIVE SERVICES ACTIVITIES/SPENDING

If Recipients are in need of more funding, in cases where their existing budget is not sufficient to cover planned and/or incurred actual costs, ISC will reimburse eligible actual costs that have not already been funded by ISC.

Recipients can submit a request to ISC outlining their planned/held activities and the funding it requires or has incurred. Consistent with the Treasury Board Secretariat Policy on Transfer Payments, ISC will provide 100% of the requested funding as an advance for reimbursing based on actual needs.

Recipients can submit more than one claim to their ISC Ontario Regional Office for reimbursement.

3.1 Steps required for the submission of an *Actual Costs Claim Excel (Declaration/Reimbursement) Forms* for Band Representative Services

Step 1: Identify your planned or incurred activities /spending

- Identify your 2018-2019 planned or incurred activities that may be eligible for reimbursement when existing funding is not sufficient to cover actual costs.

Step 2: Complete the *Actual Costs Claim Excel Form* template

Annex C of this document: “*Declaration Form*” for incurred costs

Recipients must complete the following sections in the Declaration Form and **send to ISC:**

- Section 1 – Organization’s Information
- Section 2 – Expenses for Band Representatives Services for 2018-2019
- Section 3 – Chief Financial Officer and/or Executive Director Contact Information

Annex D of this document: “*Reimbursement Form*” including instructions

Recipients must complete the following sections in the Reimbursement Form and **send to ISC:**

- Section 1 – Organization’s Information
- Section 2 – Band Representative Services – Request for Reimbursement of Actual Costs: indicate “see attached” under **Provide details of Band Representative Services for 2018-2019**
- Section 3 – Chief Financial Officer and/or Executive Director Contact Information

Documentation provided to ISC for the purpose of making claims for the reimbursement of Band Representative Services is in accordance with the letter dated **February 1, 2018**. ISC does not intend to use that documentation for other purposes.

For 2018-2019 Band Representative Services incurred costs not previously claimed, Recipients are strongly encouraged to submit their completed *Actual Costs Claim Form* for reimbursement to their ISC Ontario Regional Office by March 1st, 2019, to allow year-end financial processes. If a Recipient requires more time, the ISC Ontario Regional Office will work with the Recipient.

Reimbursement can be submitted by mail or electronically.

BY MAIL

Catherine Thai
Director, Child and Family Services Reform and Transformation
Ontario Region, Indigenous Services Canada/Government of Canada
655 Bay Street, 3^d Floor
Toronto, Ontario
M5G 2K4

ELECTRONICALLY

Send your e-mail to Catherine.Thai@canada.ca and Taia.Tarvainen@canada.ca

4. REQUIRED DOCUMENTATION

The template “*Actual Costs Claim Reimbursement Declaration Excel Form*” is the standard tool that should be used.

The minimum requirement to be submitted by Ontario Region Recipients to FNCFS Regional Office is the above mentioned form.

Canada is open to being flexible if receipts or invoices are not available, but some form of documentation is required for Canada to meet its financial accountability requirements. Should there not be an invoice or receipt, the Department will work with the requestor to complete a declaration and/or identify some other form of documentation to process the claim (e.g., existing audited financial statements, general ledgers, email confirmation from suppliers or an attestation).

5. CLAIMS COMPLETENESS CHECK AND REIMBURSEMENT PROCESSING TO RECIPIENTS

5.1 Claims Completeness and Supporting Documentation

FNCFS Regional Officers will ensure the completeness of the Recipients’ claim before it can be processed and will contact the Recipients if documentation is insufficient. ISC may also request Recipients to submit documentation to support and verify the eligibility of the expenses for reimbursement, such as: invoices, quotes, proposals, financial documentation, timesheets, provincial salary grid, etc.

5.2 Reimbursement Processing to Recipients

In the case of First Nations and Tribal Councils currently under an existing funding agreement with ISC for Band Representatives, Regional Officers will send a *Notice of Acceptance of Request (NAR) for First Nations or Tribal Councils* to issue payments once the completed claim has been received and the requirements under this Guide have been met. No signature by the Recipient will be required on the NAR to issue payment.

In the case of pre-designated/pre-delegated and designated/delegated FNCFS Agencies currently under an existing funding agreement with ISC for Band Representatives, Regional Officers will send a *Notice of Acceptance of Request (NAR) for Recipient Other* to issue payments once the completed claim has been received and the requirements under this Guide have been met. No signature by the recipient will be required on the NAR to issue payment. For those Recipients who do not have a funding agreement with ISC, a new funding agreement will be created.

Once Recipients' *Band Representative Services for Payments for Actual Costs Claims* requests have been submitted for reimbursement, ISC will issue an electronic deposit funds transfer.

Annex E of this document provides an overview of timelines for the reimbursement of actual costs for Recipients having an existing funding agreement with ISC.

ISC will make every effort to ensure that administrative burden is reduced to expedite the reimbursement of claims to Recipients.

6. THE FUNDING AGREEMENTS

Funding Agreements set out the program delivery requirements describing the nature and type of FNCFS costs that are eligible for reimbursement.

Notwithstanding the funding agreement provision where fixed funding is provided (i.e. any amount that the Recipient spends that is more than the maximum FIXED amount for the program, service or activity for the specified fiscal year is the responsibility of the Recipient), as per the CHRT Decision, the Band Representative Services eligible costs based on actual cost claims by Recipients must be reimbursed by ISC, and in case of unexpended funding, Recipient can carry over funding to the next fiscal year.

7. RECIPIENT REPORTING REQUIREMENTS

Recipients will continue to be responsible – with the assistance of their accountants / auditors – to report using CPA Canada Standards, Guidelines etc. For example, adherence to the Generally Accepted Accounting Principles – Matching Principle – where revenues and costs can be matched appropriately to leave a clear audit trail and ensure that costs are not reimbursed more than once.

In accordance with the requirements set out in the generic Data Collection Instrument #4548549 called “Activities and Expenditures Report”, for 2018-2019 Activities and Expenditures, the Recipients must submit a report for all 2018-2019 expenditures and clearly identify the overall funding received in 2018-2019.

See **Annex F of this document** of Data Collection Instrument #4548549.

8. AUDIT TRAIL FOR ELIGIBLE COSTS

In accordance with the provisions of the Funding Agreement, the Recipients' responsibility is to keep and maintain books of accounting and other records in which all receipts and disbursements in relation to the eligible costs are recorded. The description on the *Band Representative Services for Payments for Actual Costs Claim* request should be consistent with the description of goods/services involved.

9. APPEAL PROCESS

ISC has developed an escalation resolution protocol for CHRT claims. The Department is developing an appeals process in consultation with the Parties. Recipients will have the right to appeal full or partial denials.

10. CONTACT INFORMATION

Should you have any questions or concerns, we encourage you to contact your regional departmental office contact, Ms. Catherine Thai, Director, Child and Family Services Reform and Transformation, at (416) 973-5227 or Catherine.Thai@canada.ca, or Taia Tarvainen, Senior Officer, Social Programs at (416) 952-9593 or Taia.Tarvainen@canada.ca.

ANNEX A – February 1st, 2018 Email sent to Chiefs and Band/Tribal Council Members

The February 1st, 2018, letters were sent for retroactive reimbursements but Canada will continue to fund these areas on actuals (for advances or to reimburse incurred costs) until an alternative system/approach has been developed and implemented.



February 1, 2018

Dear Chiefs and Band/Tribal Council members,

Today, the Canadian Human Rights Tribunal released its ruling on First Nations Child and Family Services, which may impact you, your organizations, and the First Nations children and youth you serve.

Pursuant to the ruling, Canada is required to:

... fund Band Representative Services for Ontario First Nations, at the actual cost of providing those services retroactively to January 26, 2016 by February 15, 2018 and until such time as studies have been completed or until a further order of the Panel.[para 427]

We are writing you today to advise you of this ruling, to ensure that any costs for Band Representative Services for First Nations children and youth (0-18 years of age) in Ontario, during the time period of January 26, 2016 to February 1, 2018, will be reimbursed.

To reimburse actual costs, we kindly request that you submit any evidence of costs that you may have incurred for the delivery of Band Representative Services to any First Nations child or youth (0-18 years of age) in Ontario. Attached is a draft of possible actual costs you may have incurred to provide Band Representative Services; this list is not exhaustive. Documentation might include, but is not limited to, receipts, attestation, financial statements.

Should you incur additional costs related to gathering documentation about your retroactive expenses, please submit these along with your request for retroactive expenses.

In order to expedite the processing of your reimbursement, please send your requests and documentation of evidence of costs for Band Representative services incurred between January 26, 2016 to February 1, 2018 to Canada by **February 15, 2018**. Should you require more time to gather the documentation and evidence of costs, it will be provided. If you cannot meet the February 15, 2018 deadline it will not be a barrier to getting your reimbursements. Canada commits to process these payments no later than 15 business days after receipt of the documentation of expenses.

.../2

Canada

ANNEX A (Cont'd)

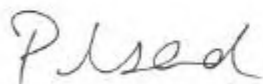
February 1, 2018, E-mail sent to Chiefs and Band/Tribal Council members

Please submit your documentation of expenses for reimbursements to your regional departmental office contact, Ms. Catherine Thai, A/Manager, Social Programs via email Catherine.Thai@canada.ca, or by mail:

Attn: Ms. Catherine Thai
A/Manager, Social Programs
Education and Social Programs Directorate
25 St. Clair Avenue East, 8th Floor
TORONTO ON M4T 1M2

Should you have any questions or concerns, we encourage you to contact your regional departmental office contact, Ms. Thai, A/Manager, Social Programs at (416) 973-5227, or Catherine.Thai@canada.ca.

Respectfully,



Paula Isaak
Assistant Deputy Minister
Education and Social Development
Programs and Partnerships
Indigenous Services Canada



Anne Scotton
Regional Director General, Ontario Region
Regional Operations
Indigenous Services Canada

Band Representative Services - Eligible Activities

Actual Costs you may have incurred and should submit for reimbursement include but are not limited to:

- Salary and benefits
- Per diem and honorarium payments
- travel
- accommodation and meal costs
- long-distance telephone costs
- client transportation (non-medical)
- family support services, and
- Court fees and disbursements and court-ordered costs related to child protection cases.

ANNEX B - ADDITIONAL INFORMATION FOR REIMBURSEMENT FOR ONTARIO BAND REPRESENTATIVES

- **Band Representative Funding Program:**

1. Historically, the Band Representative Funding program helped to cover the costs incurred by Bands in representing their community's interest in child welfare cases involving a child registered under the *Indian Act* or who is entitled to be registered.
2. A Band Representative is a person named by the Band to represent the Band's interest in child protection proceedings, or hearings, involving one of its children. The Band Representative has full party status in hearings and child protection proceedings. In cases where no consensus can be reached by the parties, the Band representative determines if legal advice is necessary.
3. Band Representative Services arise where a formal notification has been received, for example, notices of alternate dispute resolution, apprehension/protection; status review; the Child and Family Services Review Board Hearings; adoption and other matters.

- **Band Representative Responsibilities (these are examples but the responsibilities are not limited to this):**

- Provide alternate dispute resolution to reduce the number of children in care (i.e. mediation, including Indigenous approaches).
- Provide information and resources to First Nations children and families, and advocacy for the Band and their community's best interest in court.
- Provide knowledge, awareness and promotion of the Band's interest, to courts, agencies and Children's Aid Societies, of culturally and community appropriate care options, particularly customary care arrangements.
- Collaborate with other support services around prevention and care options in the best interest of the child.
- Act as a key contact within First Nation communities for courts, Children's Aid Societies and First Nations Child and Family Services Agencies.
- Maintain the connection of children to their communities by working with communities, agencies and children's aid organizations in other jurisdictions and repatriate children as deemed necessary.
- Attend and participate in court proceedings where eligible members are involved with matters related to child protection.
- Participate in consultations and decisions related to adoptions of children as deemed appropriate.
- Receive notifications and monitor Temporary Care Agreements and Voluntary Service Agreements with Children's Aid Organizations/Societies.

Band Representative Services may include: providing alternative dispute resolution, attending and participating in court proceedings and sessions; receiving and responding to notifications from the agency with protection issues; travel to meetings with CAS or court meetings; family support services; responding to queries related to court orders; conducting care/home visits to ensure that the child receives culturally appropriate services and placements.

ANNEX C – 2018-2019 DECLARATION ACTUAL COSTS EXCEL FORM FOR BAND REPRESENTATIVE SERVICES

Unclassified (When Completed)

(2018-2019)

DEPARTMENT OF INDIGENOUS SERVICES CANADA

DECLARATION FORM

BAND REPRESENTATIVE SERVICES - CHRT ORDER par. 427 of February 1, 2018

FOR CLAIMS ACTUAL COSTS FOR THE PERIOD COVERING FISCAL YEAR 2018-2019

This declaration of reimbursement is to be used when the original receipt or invoice is not available to confirm services were rendered.

Please submit this form along with the

BAND REPRESENTATIVE SERVICES ACTUAL COSTS REIMBURSEMENT FORM - CHRT ORDER par. 427

SECTION 1 - Organization's Information

Organization Name:	Band # if known:
--------------------	------------------

Street Address:

City/Community:	Province/Territory:
-----------------	---------------------

Postal Code:	Telephone Number:
--------------	-------------------

Email Address:

Mailing Address (if different from business address)

Street Address:

City/Community:	Province/Territory:
-----------------	---------------------

Postal Code:	Telephone Number:
--------------	-------------------

SECTION 2 - 2018-2019 Expenses for Band Representatives Services

Please describe the band representative for services and expenses planned or incurred, including the date, the costs and any details related to the expense.

Description of services and expenses planned or incurred:	Name of individual Providing Band Representative Services:	Date:	2018-2019 for Planned or Incurred Actual Cost:
Total Amount Claimed:			\$0.00

* Use a separate sheet of paper if required.

SECTION 3 - Chief Financial Officer or Executive Director's Information

Print Name (individual with financial signing authority):

Title:

Telephone number (with area code):

Email Address:

Print Name (secondary signing authority if required):

Title:

Date (YYYY-MM-DD) :

Privacy Notice - Protected Information

The personal information you provide to Government of Canada is governed in accordance with the Privacy Act. We only collect the necessary information we need to assess the request for reimbursement. Collection of information for this purpose is authorized under the *Department of Indigenous Services*. We require this information to process eligible payments of reimbursements and for audit purposes. In accordance with the Privacy Act and the Access to Information Act, individuals have a right to protection of, access to and correction of their personal information. Details on these matters are available at the InfoSource Web site at: <http://infosource.gc.ca>.

ANNEX D – 2018-2019 REIMBURSEMENT ACTUAL COSTS CLAIM EXCEL FORM FOR BAND REPRESENTATIVE SERVICES

(2018-2019)

DEPARTMENT OF INDIGENOUS SERVICES CANADA (ISC)
2018-2019 REIMBURSEMENT FORM
BAND REPRESENTATIVE SERVICES - CHRT ORDER par. 427 as of February 1, 2018
CLAIMS FOR ACTUAL COSTS
COVERING THE PERIOD OF FISCAL YEAR 2018/2019

This form should be used until Canada develop and implement an alternative funding system/approach

SECTION 1 - Organization's Information

Organization's Name:	Fiscal Year
<input type="text"/>	2018-2019
Name of Main Contact:	Band # (if known)
<input type="text"/>	<input type="text"/>
Email Address:	
<input type="text"/>	
Street Address:	
<input type="text"/>	
City/Community:	Province/Territory
<input type="text"/>	<input type="text"/>
Postal Code:	Telephone number:
<input type="text"/>	<input type="text"/>
Name of Secondary Contact:	
<input type="text"/>	
E-mail Address:	
<input type="text"/>	
Street Address:	
<input type="text"/>	
City/Community:	Province/Territory:
<input type="text"/>	<input type="text"/>
Postal Code:	Telephone number:
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

SECTION 2 - Band Representative Services - Request for Claim of 2018-2019 Actual Costs

Name of Individual Providing Band Representative Services:

Name of Individual Providing Band Representative Services:

Name of Individual Providing Band Representative Services:

Request for reimbursement for the following actual costs:

- Salary and benefits
- Honorarium / Per diem
- Travel (accommodations and meals)
- Long distance telephone calls
- Family support services
- Court fees, disbursements and court-ordered costs related to child protection cases
- Client transportation (non-medical)
- Other (please specify):

Page 1

In the chart below, please indicate the band representative services provided or to be provided, and include documentation of expenses where available. Documentation may include receipts, financial statements, invoices, accounting statements, other proof of payment, or a declaration that explains what services were provided and their cost (Annex B). If you prefer to include a separate sheet with your calculation outlining the details of planned or incurred actual costs, please indicate "see attached" in the chart below.

What service to be provided or was provided?	Provide the details of Band Representative Services	2018-2019 Planned or Incurred Actual Cost
Total Amount Claimed:		\$0.00

SECTION 3 - Chief Financial Officer or Executive Director's Information

Print Name (individual with financial signing authority): _____ Title: _____

Telephone Number (with area code): _____ Date: _____

Email address: _____

Print Name (secondary signing authority if required): _____ Title: _____

Telephone Number (with area code): _____ Date: _____

Email address: _____

Claims can be submitted electronically or by mail.

By Mail:

Catherine Thai
Director, Child and Family Services Reform and Transformation
Ontario Region, Indigenous Services Canada / Government of Canada
655 Bay Street, 3rd Floor
Toronto, Ontario M5G 2K4

Electronically:

Please send your email to: *Catherine.thai@canada.ca* and *Taia.Tarvainen@canada.ca*

FOR INTERNAL USE

FOR GOVERNMENT OF CANADA USE ONLY

Case Tracking Number:

REIMBURSEMENT EXCEL CLAIM FORM (ANNEX A):

DEPARTMENT OF INDIGENOUS SERVICES CANADA (ISC)

Protected B when Completed

(2018-2019)

ANNEX A (OF REIMBURSEMENT ACTUAL COST CLAIM FORM)

EXTERNAL USE

Organization's Information

Provide general contact information about the organization

List the contact information for the organization's primary and secondary contact, which have legal financial signing authority.

Band Representative Services - Request for Claim of Actual Costs

Provide the name of the band representative who provided services where actual costs will be claimed for the fiscal year of 2018/2019.

Request for claims of actual costs for different categories:

Select the general categories that will be requested for reimbursement for the band representative that is named.

List the band representative services provided:

List each band representative service on separate lines and further details if applicable, including the associated cost of each service.

Provide documentation of expenses. If claiming salary and benefits include details of hourly rate and number of hours being requested for reimbursement, this can include a summary of annual salary and rate and number of hours being requested for reimbursement, this can include a summary of annual salary and benefits. If you require additional space for your request, use a separate sheet of paper.

***If you have already completed your calculation or prefer to provide a separate document outlining actual costs that were incurred or to be incurred for the eligible actual cost claim period, please indicate "see attached" in the charts.**

Chief Financial Officer or Executive Director's Contact Information

Chief Financial Officer, Executive Director to serve as the organizational contact that has legal financial signing authority for the organization.

Include information of the person with financial signing authority authorizing submission of claims for actual costs.

Requirements Checklist

Supporting documents to be submitted with your actual cost claim request include:

- Completed Band Representative Services Actual Cost Claim form
- Receipts, financial statements, invoices, accounting statements, other proof of payment or a signed statement (Declaration Form - Annex B) that explains what services were provided and their cost.

Note: All documents submitted throughout the financial claim process will not be returned to the individual/organization. Please keep a copy for your records. All documentation must be in English or French. Additional documents or information may be requested in support of this application.

Privacy Notice - Protected Information

The personal information you provided to the Government of Canada is governed in accordance with the Privacy Act. We only collect the necessary information we need to assess the request for reimbursement. Collection of information for this purpose is authorized under the *Department of Indigenous Services*. We require this information to process eligible payments of reimbursements and for audit purposes. In accordance with the *Privacy Act* and the *Access to Information Act*, individuals have a right to protection of, access to and correction of their personal information. Details on these matters are available at the InfoSource Web site at: <http://infosource.gc.ca>.

ANNEX E – TIMELINE FOR REIMBURSEMENT OF ACTUAL COSTS



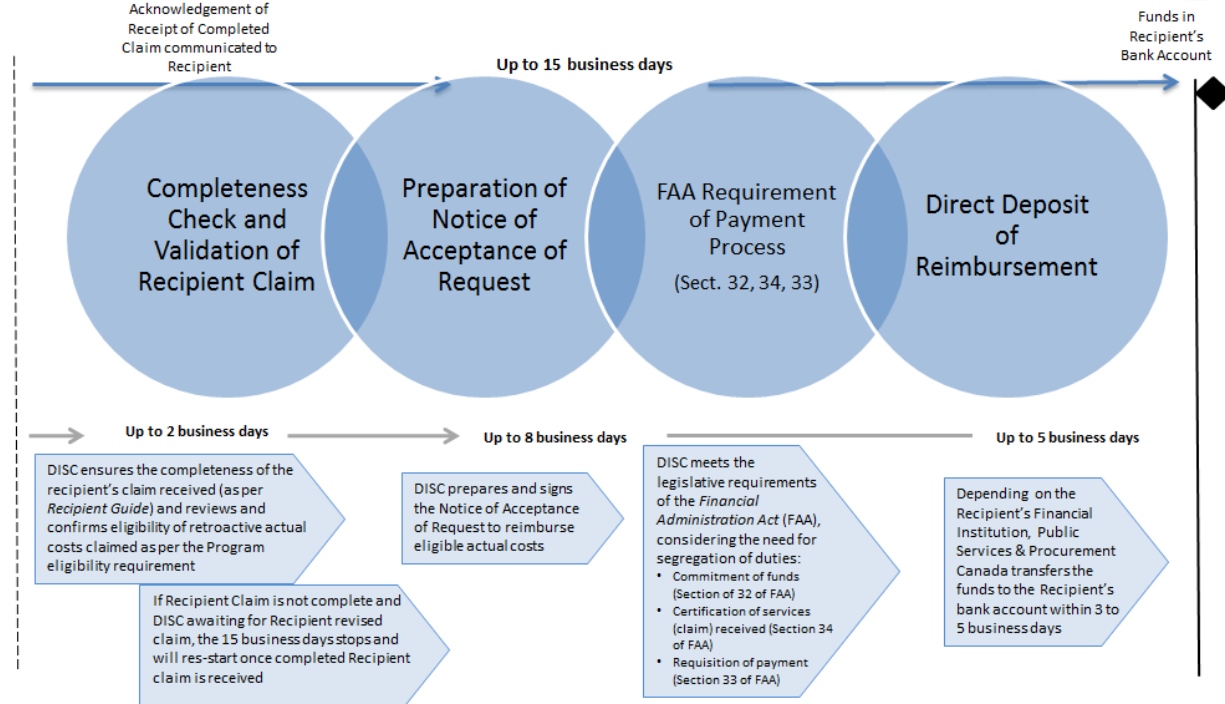
Indigenous Services
Canada

Services aux
Autochtones Canada

Timeline* for Reimbursement of Retroactive Actual Costs Claimed by Recipient

Resulting from February 1, 2018 Canadian Human Rights Tribunal Orders

* This timeline applies to Recipients under an existing Funding Agreement with DISC





Indigenous and Northern Affairs Canada

Affaires autochtones et du Nord Canada

PROTECTED A (When Completed)
DCI 4548549 (2018-2019)
Page 1 of 3

Print

View Instructions

Clear Data

ACTIVITIES AND EXPENDITURES REPORT

Privacy Act Statement

This statement explains the purposes for the collection and use of personal information. Only information needed to respond to program/reporting requirements will be requested. Collection and use of personal information are in accordance with the *Privacy Act*. In some cases, information may be disclosed without your consent pursuant to subsection 8(2) of the *Privacy Act*. We will use your personal information in order to respond to your request(s) and/or program requirements. The collection and use of your personal information provided to INAC for selected program/funding reporting and administration purposes are authorized by program specific legislation and required for your participation. The information collected is described by program specific Personal Information Banks (PIB) detailed at [Info Source](#). For further details about applicable legislative authority, PIB description and/or to notify us about incorrect information or to withdraw participation after submitting your information, contact the Department at 1-800-567-9604. If you require clarification about this Statement, contact our Privacy Coordinator at 819-997-8277. For more information on privacy issues and the *Privacy Act* in general, you can consult the Privacy Commissioner at 1-800-282-1378.

Identification

Recipient Name	Recipient Number
----------------	------------------

Program

Choose the program on which you are reporting from the list below. Selecting a program hides the fields that are not required for that program.

- Aboriginal Financial Officers Association of Canada
- Band Support Funding for Third Party Manager Services
- British Columbia Capacity Initiative
- Consultation and Policy Development
- Emergency Management Assistance Program
- Estates Management Program
- Family Violence Prevention Program: Prevention Projects
- Federal Initiative on Consultation
- First Nations Child and Family Services
- Group Independent Assessment Process
- Income Assistance
- NSD* - Assessment and Historical Research: Special Claims
- NSD - Comprehensive Claims Submission
- NSD - Enrolment and Ratification
- NSD - Governance Capacity Development for Self-Government
- NSD - Inherent Right
- NSD - Inherent Right: Consultation
- NSD - Negotiation of Incremental Treaty Agreements and Non-Treaty Agreements
- NSD - Negotiation Preparedness Initiative
- NSD - Negotiations (Lubicon only)
- NSD - Office of the Treaty Commissioner
- NSD - Specific and Special Claims Submissions
- NSD - Specific Claims Tribunal Activities
- NSD - Treaty Commission and Discussions
- Professional and Institutional Development
- Treaty Management
- Treaty Related/Interim Measures
- Urban Programming for Indigenous Peoples
- Yukon Environmental and Socio-economic Assessment Act
- Other (Specify) _____

* Negotiation Support Directorate



Expenditure Report

Reporting Period: From (YYYYMMDD) To (YYYYMMDD)

Budget Item	Budget Amount	Expenditure Amount	Variance
[+] <input type="text"/>	\$0.00	\$0.00	\$0.00
[+] Add a Budget Item			
Total	\$0.00	\$0.00	\$0.00

In-Kind Sources (if applicable)

Source Name	Value (Optional)
[+] <input type="text"/>	\$0.00
[+] Add a Source Name	
Total In-Kind Sources	\$0.00

Supporting Documents

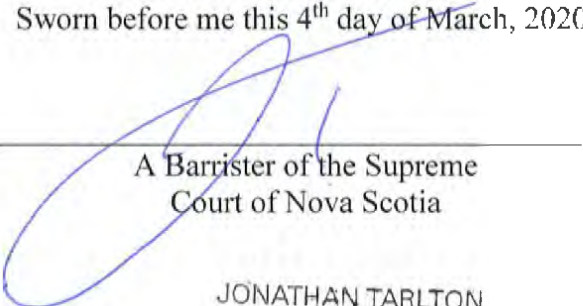
Title	Submission Method
[+] <input type="text"/>	<input type="text"/>
[+] Add a Document	

Declaration

The information provided is accurate to the best of my knowledge.

Given Name <input type="text"/>		Family Name <input type="text"/>	
Title <input type="text"/>			Date (YYYYMMDD) <input type="text"/>

This is **Exhibit "4"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia



Indigenous
Services Canada

Services aux
Autochtones Canada

FIRST NATIONS CHILD AND FAMILY SERVICES

PROGRAM DIRECTIVE

PREVENTION / LEAST DISRUPTIVE MEASURES

January 2020



Canada

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ANNEX A – RISK AND PROTECTIVE MEASURES

ANNEX B – RECOMMENDED LIST OF RESOURCES

DRAFT

PREAMBLE

On February 1, 2018 the CHRT ordered Canada to fully reimburse First Nations child and family services agencies' costs for prevention/least disruptive measures, intake and investigation, legal fees, building repairs, the child service purchase amount and for small agencies, based on actual needs and on the same basis as the practice for funding maintenance costs (i.e. to fully reimburse actual costs for these services as determined to be in the best interest of the child).

The paragraphs of the February 1, 2018 CHRT decision relating to the reimbursement of eligible actual costs can be found in **Annex A of this document** and the full decision can be found at: <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/308639/index.do?q=fncfs>.

The Government of Canada is committed to working with partners¹ to fully implement the orders of the Canadian Human Rights Tribunal. One of the key aspects of the reform is to make the system child-centered, community-directed and focused on prevention and early intervention. With program reform, services under the First Nations Child and Family Services (FNCFS) Program will be provided on the basis of [substantive equality](#) to address the specific needs and circumstances of First Nations children and families living on-reserve – including their cultural, historical and geographical needs and circumstances – in a manner that accounts for cost drivers related to inflation and increased needs or numbers of children in care and their families.

As part of the reform in December 2018, the Government of Canada established, new enhanced Program Terms and Conditions that:

- expand eligible initiatives and projects funded under the program, including prevention-based supports and activities;
- introduce the Community Well-being and Jurisdiction Initiatives funding stream; and
- update FNCFS Program outcomes.

¹ To ensure inclusiveness, the term “partners” is not defined and could include First Nations, provincial and territorial governments, national and regional Indigenous organizations, and other Parties to the Tribunal complaint.

1. SCOPE

This document applies to support for the delivery of prevention/least disruptive measures services within the FNCFS Program and should be considered in conjunction with the Terms and Conditions and the National Recipient Guide of the FNCFS Program.

This Directive provides guidance to Recipients and Indigenous Services Canada (ISC) Regional Offices on:

- the prevention/least disruptive measures component within the FNCFS Program;
- access to funding as per the CHRT decision (including requirements to be met when preparing prevention/least disruptive reimbursement claims); and
- the planning and reporting requirements for FNCFS agencies.

As the Directive is not an exhaustive document, FNCFS agencies are encouraged to explore the recommended resources listed in Annex B, as well as to seek further guidance from their ISC regional office.

2. PREVENTION / LEAST DISRUPTIVE MEASURES

The following are the paragraphs of the February 1, 2018 CHRT Decision² relating to prevention/least disruptive measures:

[410] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada, pending long term reform of its National FNCFS Program funding formulas and models, to eliminate that aspect of its funding formulas/models that creates an incentive resulting in the unnecessary apprehension of First Nations children from their families and/or communities. To this effect, and pursuant to Section 53 (2) (a) of the CHRA, the Panel orders INAC to develop an alternative system for funding prevention/least disruptive measures, intake and investigation, legal fees, and building repairs services for First Nations children and families on-reserve and in the Yukon, based on actual needs which operates on the same basis as INAC's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFC agencies to be in the best interests of the child and develop and implement the methodology including an accountability framework in consultation with AFN, the Caring Society, the Commission, the COO and the NAN (see protocol order below), by April 2, 2018 and report back to the Panel by May 3, 2018.

[411] The Panel, pursuant to Section 53 (2) (a) of the CHRA, orders Canada to cease its discriminatory funding practice of not fully funding the costs of prevention/least disruptive measures, building repairs, intake and investigations and legal fees. In order to ensure proper data collection and to be responsive to the real needs of First Nations children, the Panel orders Canada, to provide funding on actual costs for least disruptive measures/prevention, building repairs, intake and investigations and legal fees in child welfare to be reimbursed retroactive to January 26, 2016 by April 2, 2018. This order complements the order above.

² <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/308639/index.do?q=fncfs>.

2.1 Three categories of prevention / least disruptive measures

On January 26, 2016, the CHRT described and classified prevention services into three³ main categories, primary, secondary and tertiary prevention.

Primary Prevention	Secondary Prevention	Tertiary Prevention
<p><i>Target: community</i></p> <ul style="list-style-type: none"> Concrete activities such as awareness campaigns and information sessions targeted to person(s) at risk of interacting with CFS in order to reduce risk factors. Promotion and awareness on how to recognize and respond to child maltreatment. 	<p><i>Target: families, caregivers and/or children</i></p> <ul style="list-style-type: none"> Child protection concerns have been identified for a specific child(ren). Targeted interventions and measures are implemented to address the risks of child maltreatment and enhance the protective factors to help avoid crisis. Group intervention or specific family support activities that are directly linked to the child protection concerns. 	<p><i>Target: families, caregivers and/or children</i></p> <ul style="list-style-type: none"> Child requires protection services (open case file). Strategies (can be varied) are tailored to the caregiver/child's specific needs in order to end maltreatment and keep the family together. These activities relate to specific family member needs and are aimed at preventing/ending the crisis- to avoid removal of the child(ren) from the home. <u>It also includes services⁴ provided to families who have their children removed in order to remediate risks so the child can return home.</u>

← Least Disruptive Measures →

Least disruptive measures refers to the most appropriate level of service needed by a family whose children are at risk of maltreatment or where maltreatment has taken place. Child removal would be used only after having explored all other options.

Commented [MP1]:
Alternate wording :
These activities relate to specific family member needs and are aimed at preventing/ending the crisis- to avoid removal of the child(ren) from the home **and while the children are in care so that they can return home.**

Commented [MP2R1]: Text revised.

Commented [MP3]: Mathieu

³ The reference to the three levels of prevention services is formatted different but verbatim from the CHRT decision, paragraph [116] : <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/308639/index.do?q=fnfcs>

⁴ Where these are not already covered by maintenance funding.

2.2 Examples⁵ of prevention / least disruptive measures

Prevention/least disruptive measures and activities must clearly link to the Program's outcomes and address the risks identified and strengthen protective factors to support a child and a family where if no intervention is taken, the child will be at risk of being taken into care. See Annex A for risk and prevention factors.

Commented [CB4]: These have already been identified as flawed and yet INAC continues to rely on them. This is inappropriate and reflects a reverence for bureaucratic norms versus a shift required to observe the CHRT decision. There is no MUST here- the only must is Canada MUST observe the orders. They prevail over any iSC policy or administrative procedure.

Primary Prevention	Secondary Prevention	Tertiary Prevention
<ul style="list-style-type: none"> • Violence and anger management sessions • Nutrition classes for teen parents • Awareness campaigns on child maltreatment and its prevention and on the reporting of suspect child abuse and neglect • Parenting support services 	<ul style="list-style-type: none"> • Home visit programs for new parent(s) / teen parent(s). • Parent mentoring programs • Life-skills training • Parenting skills training • Family counseling, guidance and assessment • Mediation of disputes 	<ul style="list-style-type: none"> • Immediate crisis intervention supports • Intensive family preservation services • Family support worker costs for education, appropriate modeling techniques, and other supportive services or educational classes such as behavior management, independent living skills, parenting skills • Restorative intervention services • In-home support assistance with meal preparation, housekeeping and shopping • Child care, respite care

Commented [MP5R4]: We acknowledge that these outcomes are subject to changes and we are hoping to work with the Parties to develop other meaningful outcomes. However, for the time being, these are the outcomes that have been approved, and all activities that recipients undertake must be working towards achieving these outcomes.

3. FUNDING

Programming and costs subject to reimbursement under the February 1, 2018 CHRT decision are based on actual needs to implement targeted interventions (as identified in the intake, assessment, family service plan, family care/case plan, child's service plan, child in care plan, case plan, care plan, family enhancement agreement or similar document) and based on the community need assessment and plan to address protection concerns identified and notifications and incidents

⁵ As the list of examples is not exhaustive, agencies are encouraged to seek further guidance from their ISC regional offices.

reported on child maltreatment, abuse and neglect.

Eligible activities and costs must address the protection concerns identified and notifications reported and strengthening protective factors to support a child and a family where if no intervention is taken, the child will be at risk of being taken into care.

Accordingly, eligible activities and costs support the intent of the FNCFS Program to reduce the number of children in care by addressing the specific needs identified for a child or a family, implementing targeted and concrete actions to mitigate or avoid child maltreatment; reducing the risk of having the child interacting with the welfare system or being taken into care; and redressing risks for children who are in care to enable their return home.

Prior to seeking reimbursement for actuals related to prevention/least disruptive measures, the following types of questions could be used to support the planning and or the decision-making process:

- Which risks are identified?
- What intervention is needed to address the risks?
- In what way(s) the prevention activities address the concerns and risks identified and strengthen protective factors to reduce the incidence of children interacting with the welfare system and being taken into care?
- Is the FNCFS Program the best way to address the risks or strengthen protective factors?
 - If no prevention intervention is taken, then what will be the impact?
- Are there other federal, provincial/territorial, or municipal programs that are better suited to address the needs while not placing the child at a disadvantage?

4. PREVENTION PLANNING

Although prevention/least disruptive measures expenses may be subject to reimbursement under the February 1, 2018, CHRT decision, it is recommended that prevention activities and associated costs be identified in a multi-year plan.

Planning is integral to the success of prevention/least disruptive measure programming. It enables a proactive, outcomes-focused approach in which strengths and needs are identified, prevention/least disruptive measures initiatives are tailored, and resources are dedicated to the priorities.

Accordingly, the FNCFS Program supports prevention/least disruptive measures programming that is culturally appropriate, thoughtful and deliberate, where initiatives are planned that support reducing/preventing imminent risk of child maltreatment and provides services to those most at risk or those who most need it first.

Through its multi-year planning process, a Recipient is encouraged to research and consult with the community to:

Commented [MP6]: Remediating all forms of maltreatment goes above and beyond the scope of the program.

Commented [CB7]: Who decides this? It is important that ISC not second guess professional assessments by social workers on the ground.

Commented [MP8]: The purpose of the Prevention Directive is not to make decisions on, or question what activities are deemed necessary by the Agency / Social Worker to address prevention. The purpose of the Directive is to provide recipients more detail in terms of examples on eligibility of prevention/least disruptive measures reimbursement claims and is meant to be a companion document to the T&Cs.

Commented [CB9]: Reword so as not to imply that all prevention services have a focus on reducing children in care- the services are meant to strengthen families and reduce child maltreatment regardless of whether the child comes into care.

Commented [CB10]: This is the programs objective and we have already pointed to the lack of evidence to support this, The CHRT also looked at this re :EPFA-Canada's expectations fo reductions in care were unrealistic.

Commented [MP11]: Noted. Text Revised.

Commented [CB12]: This is way too much information for the Department to request and should be double checked with the Privacy Commissioner and against privacy provisions of CFSA acts that prohibit the sharing of children's information to accomodate billing and other matters not related to the best interests of the child.

Commented [MP13]: The questions included are meant to support and guide agencies in the planning process only.

Commented [CB14]: Why- there is no such requirement in the CHRT. We have also challenged the utility of these multi-year plans and ISC has not responded with a convincing reason as to why such plans are required.

Commented [CB15]: See previous comemnts0 this is inconsistent with child welfare law.

- identify the risk factors to be alleviated and the protective factors to be developed;
- prioritize issues and responses, ensuring that imperative factors are appropriately addressed; and
- determine what intervention (early or targeted) is needed at the secondary and tertiary levels of prevention/least disruptive measures.

A Recipient may not be the only organization in the community that will play a role in helping to mitigate risk factors and enhance protective factors. Health service providers, educational institutions, cultural institutions, and other social service providers may offer assistance that can support the well-being of individuals, families and communities.

Service providers working together are likely to be more effective and to use their respective resources more efficiently. In some cases, building connections, and working to strengthen and revitalize mutually respectful relationships with other service providers will support equitable and culturally safe child and family services for First Nations children, youth and families.

Commented [CB16]: To what degree with ISC deny claims on this basis? What about stacking provisions?

Commented [MP17]: Stacking provisions are already addressed in contribution agreements.

When planning, a Recipient will decide when to assume a lead role when a need is directly related to child welfare. It also will determine when it is more appropriate to take a supporting or referring role, such as when an issue is more relevant to the mandate of another service provider. Both roles serve to improve conditions within the community by assisting community members to obtain the services and resources they need from the appropriate sources (see Directive on Agency Multi-Year Plan). A list of resources is included in Annex B to support and guide Recipients. Also included in Annex B is a reference to a prevention framework developed by the First Nations of Quebec and Labrador Health and Social Services Commission (Commission). Acknowledging the experience of the Commission in relation to community engagement and planning, their Prevention Services Framework is available to agencies to use as a tool to guide the First Nation communities they serve regarding planning, developing and implementing actions towards addressing child welfare and well-being of children and families based on the most urgent needs and community priorities identified.

5. REPORTING

The availability of and access to culturally appropriate prevention/least disruptive measures services are identified as key Program outcomes. Historically, ISC has collected data on maintenance (i.e., protection), but there has been limited information that would pertain to the new outcomes or to the effectiveness of the reformed FNCFS Program, specifically the prevention/least disruptive measures component.

As of April 2019, a new Data Collection Instrument (DCI) has been made available in addition to the DCI on maintenance, in both online and paper formats, to enable reporting on prevention/least disruptive measures activities as well as on additional child welfare indicators to better demonstrate the overall performance of the FNCFS Program.

Commented [CB18]: Has this been screened by the Privacy Commissioner and against provincial/territorial child welfare legislation and C-92

Commented [MP19]: The Prevention DCI does not contain or involve any personal information sharing.

The new DCI for prevention/least disruptive measures, in addition to the existing DCI for maintenance, gathers data that can better demonstrate the overall performance of the FNCFS Program.

Program Indicators	Program Outcome
<ul style="list-style-type: none"> Number and list of prevention/least disruptive measures activities and total participants (children and families). 	<ul style="list-style-type: none"> First Nations families have greater access to culturally-appropriate prevention/least disruptive measures and early intervention services.
<ul style="list-style-type: none"> Number of prevention/least disruptive measures activities and programs delivered. 	<ul style="list-style-type: none"> First Nations service providers have adequate and predictable resources that allow for the development and delivery of culturally based child welfare standards and services including prevention/least disruptive measures services.
<ul style="list-style-type: none"> Number of reunification and other permanencies. 	<ul style="list-style-type: none"> First Nations children in care achieve permanence and stability.
<ul style="list-style-type: none"> Number of children at risk. Number of recurrence. Number of children who require . intervention support for the first time. 	<ul style="list-style-type: none"> The safety and well-being of First Nations children are improved.
<ul style="list-style-type: none"> Number of First Nations children in care. 	<ul style="list-style-type: none"> The over-representation of First Nations children in care is decreased compared to the proportion of non-Indigenous children in care in the overall population of children in Canada.
<ul style="list-style-type: none"> Percentage of kinship care. Number of cultural activities. 	<ul style="list-style-type: none"> Continuity of family, community and cultural connections is preserved for First Nations children in care.

While the Program outcomes and the indicators have been established within the context of the FNCFS Program to ensure compliance with Treasury Board guidelines, each agency is encouraged to develop its own performance indicators that are reflective of the communities it serves. These indicators could be documented in the agency's multi-year plan and its annual report.

Commented [CB20]: These outcomes were not agreed to by CCCW or NAC

Commented [MP21]: Proposed :
While the FNCFS program already has outcomes and indicators based on the Treasury Board's policy on results, each agency is encouraged to develop other outcomes/results and indicators outside of the FNCFS program that are specific to the needs and priorities of the communities they serve. This is essential information to include and document in multi-year plans to highlight specific elements and success and enhance the reporting and work moving forward.

RISK AND PROTECTIVE FACTORS

Child maltreatment is a complex issue. Factors⁶ that will increase a child's risk of being abused or neglected may be related to the child's characteristics or those of their family, the community in which they live, or inequities in public services and social policies. Risk indicators, or factors associated with an increased likelihood of maltreatment, vary for the different types of abuse or neglect. It is important to recognize that many people who have risk factors for maltreatment do not go on to maltreat children.

Risk factors are conditions or attributes of individuals, families, communities, or the larger society that discourage, disrupt or interfere with healthy family functioning.

Protective factors are those conditions or attributes of individuals, families, communities, or the larger society that promote well-being and reduce the risk of negative outcomes. Risk and protective factors can be categorized into three levels: individual, relationship, and community.

Examples of Risk Factors

Individual Risk Factors:

- parents' lack of understanding of children's needs, child development and parenting skills;
- parental history of child abuse and or neglect;
- substance abuse and/or mental health issues including depression in the family;
- parental characteristics such as young age, low education, single parenthood, large number of dependent children, and low income;
- non-biological, transient caregivers in the home (e.g., mother's male partner); and
- parental thoughts and emotions that tend to support or justify maltreatment behaviors.

Relationship (Family) Risk Factors:

- social isolation;
- family disorganization, dissolution, and violence, including intimate partner violence; and
- parenting stress, poor parent-child relationships, and negative interactions.

Community Risk Factors:

- concentrated neighborhood disadvantage (e.g., high poverty and residential instability, high unemployment rates, and high density of alcohol outlets), and poor social connections.

Commented [CB22]: CIS shows that child characteristics are not significant in decisions to substantiate child maltreatment. Most of the significant factors are at the household level driven by structural issues.

Commented [MP23]: Noted.

Commented [MP24]: Suggest keeping original language. Inequities are already acknowledged on the preamble of the directive and in the terms and conditions of the program.

Commented [CB25]: First Nations are significantly over-represented for neglect – more particularly failure to supervise and failure to meet needs both of which are highly correlated to poverty and poor housing. It is important to be more precise- to an untrained eye – this statement presumes an even distribution of child maltreatment types.

Commented [MP26]: Noted

Commented [CB27]: What source was used for these and were these culturally validated for First Nations?

Commented [MP28]: Reference provided in the footnote. It is mainly based from Centers for Disease Control and Prevention (CDC).

Commented [CB29]: This list does not account for the fact that different risk factors contribute to different forms of maltreatment and the larger the number of risk factors the larger the risk of child maltreatment. It also does not include the strong findings of the secondary analysis of the CIS specific to FN kids and the risk factors they experience.

Commented [MP30]: These are examples of risks keeping in mind the FNCFS authorities and the intent of the program.

⁶ <https://www.cdc.gov/violenceprevention/childabuseandneglect/riskprotectivefactors.html>

Examples of Protective Factors

Individual Protective Factors:

- **social and emotional competence of children:** Family and child interactions that help children develop the ability to communicate clearly recognize and regulate their emotion and establish and maintain relationships.
 - self-regulation skills.
 - problem-solving skills.
- **cultural connection:** Connection to one's culture can be a source of individual strength for a child.

Relationship (Family) Protective Factors:

- **knowledge of parenting and child development:** The ability to exercise effective parenting strategies to guide and know what to expect as children develop in multiple domains (physical, cognitive, language, social and emotional).
 - nurturing parenting skills.
 - household rules and child monitoring.
 - parental education.
- **parental resilience:** The ability to recover from difficult life experiences, and often to be strengthened by and even transformed by those experiences.
 - supportive family environment and social networks.
 - stable family relationships.
 - parental employment.
- **social connections to community and culture:** The ability and opportunity to develop positive relationships that lessen stress and isolation and help to build a supportive network.
 - positive community environment with strong cultural connections and teachings (i.e. cultural teachings about parenting).
 - positive school environment.
 - caring adults outside the family who can serve as role models or mentors.

Community Protective Factors:

- **concrete support in times of need:** Access to supports and services that reduces stress and helps to make families stronger.
 - communities that support parents and take responsibility for preventing abuse.
 - access to health care and social services.

ANNEX B

RECOMMENDED LIST OF RESOURCES

Center for the Study of Social Policy: The **Strengthening Families Approach and Protective Factors Framework** - <https://cssp.org/wp-content/uploads/2018/11/Branching-Out-and-Reaching-Deeper.pdf>

Child Welfare Information Gateway: *Promoting Protective Factors for In-Risk Families and Youth: A guide for practitioners* - <https://www.childwelfare.gov/pubs/factsheets/in-risk/>

Child Welfare Information Gateway - *Framework for Prevention of Child Maltreatment*
<https://www.childwelfare.gov/pubs/usermanuals/neglect-93/>

First Nations Child and Family Caring Society of Canada – *Staying At Home, Examining the implication of Lease Disruptive Measures in First Nations Child and Family Service Agencies* - https://fncaringociety.com/sites/default/files/docs/Staying_at_Home.pdf

Canadian Incidence Study of Reported Child Abuse and Neglect:
<https://cwpr.ca/publications/canadian-incidence-study-reported-child-abuse-and-neglect-2008-cis-2008-major-findings>

Ministry of Children and Family Development British Columbia -
Running head: EARLY INTERVENTION AND PREVENTION -
<https://www.uvic.ca/research/assets/docs/rpkm/Paulina%20Gornicki%20%20%20Early%20Intervention%20and%20Prevention%20for%20Aboriginal%20Children%20and%20Families%20%20Final%20Report.pdf>

World Health Organization – *Preventing Child Maltreatment: A guide to taking action and generating evidence* -
https://apps.who.int/iris/bitstream/handle/10665/43499/9241594365_eng.pdf;jsessionid=3A804E18D4D93960D4A8E08D94192E1E?sequence=1

World Health Organization – *Measuring and monitoring national prevalence of child maltreatment: a practical handbook* - http://www.euro.who.int/_data/assets/pdf_file/0003/317505/Measuring-monitoring-national-prevalence-child-maltreatment-practical-handbook.pdf

2015 Prevention Resource Guide: *Making Meaningful Connections* -
<https://www.childwelfare.gov/pubPDFs/2015guide.pdf>

2018 Prevention Resource Guide: *Keeping Children Safe and Families Strong in Supportive Communities* - https://www.childwelfare.gov/pubPDFs/guide_2018.pdf

First-Line Prevention Services Framework: *First Nations of Quebec and Labrador Health and Social Services Commission* <http://www.cssspnql.com/en/fnqlhssc>

Child Welfare League of Canada
www.cwlc.ca

Centre of Excellence for Child Welfare
www.cecw-cepb.ca

Commented [CB31]: Any peer review articles? What about the CIS? Why are the structural factors identified in the WHO report, CWLC, Caring Society paper and in CIS not specifically identified in the above text?

Commented [MP32]: More resources added.

Commented [CB33]: This is a Master paper not a published article

Commented [MP34]: As identified in the section title, the list is meant to provide resources as guidance to Agencies. ...

Commented [CB35]: This document supports the Spirit Bear plan and redress of structural inequalities but that is not dealt with in the text.

Commented [MP36]: Noted.

Commented [CB37]: I was one of the members of this group but it was defunded by Canada well over a decade ago. While some materials may be relevant they are dated.

Commented [MP38]: Noted

This is **Exhibit "4A"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a vertical stroke and a horizontal stroke, positioned above a horizontal line.

A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARTON
A Barrister of the Supreme
Court of Nova Scotia

Draft Directive on Prevention - Input Tracker – Dr. Blackstock comments November 11, 2019

Page Number / Location	Prevention Directive Original Text	Dr. Blackstock Revisions/Comment/Questions	Program Response
Page 3 Preamble	The Tribunal ordered Canada to cease its discriminatory practices and to reform the Program to reflect the findings in its decision. Subsequent orders have since been released in relation to this ruling, <u>- most recently February 21, 2019.</u>	The Tribunal ordered Canada to cease its discriminatory practices and to reform the Program to reflect the findings in its decision. Subsequent orders have since been released in relation to this ruling, <i>- most recently on September 4, 2019.</i>	Consistent with other program documents and guides, CHRT weblink to access more information on FNCFS orders was added.
Page 3 Preamble	The Government of Canada is committed to working with <u>partners</u> to fully implement the orders of the Canadian Human Rights Tribunal.	<ol style="list-style-type: none"> 1. <i>Identify who partners are.</i> 2. <i>Why not use committed to working instead of the verb "consult"?</i> 	<ol style="list-style-type: none"> 1. Footnote to describe partners has been added. 2. Changed to *Working* to align with other program documents and terminology previously used.
Page 3 Preamble	One of the key aspects of the reform are to make the system child-centered ...	<i>The key aspects of the reform are to make the system child-centered</i>	<ul style="list-style-type: none"> • Kept original wording *one of the key aspects*. Wording is consistent with other program documents.
Page 4 Three levels of Prevention Activities (secondary)	The measure or activity will prevent the occurrence or emergence of maltreatment and addresses these risks to help avoid a crisis.	Services are provided to remediate the risks (including structural risks) to support the family to safely care for their child(ren).	Revised language included. Targeted interventions and measures are implemented to address the risks of child maltreatment and enhance the protective factors to help avoid crisis.

Page 5 Examples of Prevention	...It is important to note that prevention/least disruptive services and activities must clearly link to the Program's outcomes...	<p><i>Outcomes have already been identified as flawed and yet INAC continues to rely on them. This is inappropriate and reflects a reverence for bureaucratic norms versus a shift required to observe the CHRT decision.</i></p> <p><i>There is no MUST here- the only must is Canada MUST observe the orders. They prevail over any ISC policy or administrative procedure.</i></p>	<p>Must keep original language as:</p> <ul style="list-style-type: none"> The Program outcomes are from the Terms and Conditions which were developed in consultation with the NAC and the CCCW. ISC acknowledges that these outcomes are subject to changes and we will continue to work with the Parties to develop other meaningful outcomes. However, for the time being, these are the outcomes that have been approved, and all activities that recipients undertake must be working towards achieving these outcomes.
Page 6 Examples of Prevention	Awareness campaigns on how and where to report suspected child maltreatment	What about Canada's obligation under C-92 to remediate poverty and other drivers of child maltreatment?	<ul style="list-style-type: none"> The intent of the FNCFS Program, within the current authorities and terms and conditions, does not speak to remediating poverty but to supporting child welfare with the provision child and family services to protect children and support stability of families. Slight Rewording: Awareness campaigns on child maltreatment and the prevention and on the reporting of suspect child abuse and neglect.
Page 6 Funding	Programming and costs subject to reimbursement under the February 1, 2018 CHRT decision are based on actual needs to implement targeted interventions (as identified in the intake, assessment, family service plan, family care/case plan, child's service plan, case plan, care plan, family enhancement agreement or similar document) to address concerns identified and notifications and incidents reported on child maltreatment, abuse and neglect.	Programming and costs subject to reimbursement under the February 1, 2018 CHRT decision are based on actual needs to implement targeted interventions (as identified in the community needs assessments, intake, assessment, family service plan, family care/case plan, child's service plan, child in care plan, case plan, care plan, family enhancement agreement or similar document) to remediate all forms of child maltreatment.	<ul style="list-style-type: none"> Remediating all forms of maltreatment goes above and beyond the scope of the program. Agencies are encouraged to work closely with Communities through multi-year planning process. <p><u>Revised language included.</u></p> <p>Programming and costs subject to reimbursement under the February 1, 2018 CHRT decision are based on actual needs to implement targeted interventions (as identified in the intake, assessment, family service plan, family care/case plan, child's service plan, child in care plan, case plan, care plan, family enhancement agreement or similar document) and based on the community need assessment and plan to address protection concerns identified and notifications and incidents reported on child maltreatment, abuse and neglect.</p>
Page 6 Funding	Eligible activities and costs must address the protection concerns identified and notifications reported and strengthening protective factors to support a child and a family where if no intervention is taken, the	<ul style="list-style-type: none"> <i>Who decides? It is important that ISC not second guess professional assessments by social workers on the ground.</i> <i>Reword so as not to imply that all prevention services have a focus on reducing children</i> 	<ul style="list-style-type: none"> The purpose of the Prevention Directive is not to make decisions on or question what activities are deemed necessary by the agency / social worker to address prevention. The intent of the document is to provide guidance to Agencies and is meant to be a companion document to the T&Cs.

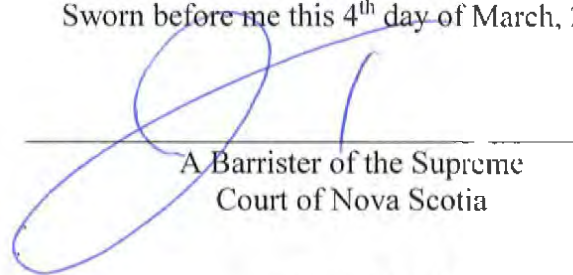
	<p>child will be at risk of being taken into care. Accordingly, eligible activities and costs support the intent of the FNCFS program to reduce the number children in care by addressing the specific needs identified for a child or a family, implementing targeted and concrete actions to mitigate or avoid child maltreatment, reducing the risk of having the child interacting with the welfare system or being taken into care and redressing risks for children who are in care to enable their return home.</p>	<p><i>in care- the services are meant to strengthen families and reduce child maltreatment regardless of whether the child comes into care.</i></p> <ul style="list-style-type: none"> <i>This is the programs objective and we have already pointed to the lack of evidence to support this, The CHRT also looked at this re :EPFA- Canada's expectations for reductions in care were unrealistic.</i> 	<ul style="list-style-type: none"> ISC acknowledges that these outcomes are subject to changes and we will continue to work with the Parties to develop other meaningful outcomes. However, for the time being, these are the outcomes that have been approved, and all activities that recipients undertake must be working towards achieving these outcomes.
Page 7 Funding	<p>Prior to seeking reimbursement for actuals related to prevention/least disruptive measures, the following questions could be used to support the planning and or the decision-making process:</p> <ul style="list-style-type: none"> Which risks are identified? What intervention is needed to address the risks? In what way(s) the prevention activities address the concerns and risks identified and strengthen protective factors to reduce the incidence of children interacting with the welfare system and being taken into care? 	<ul style="list-style-type: none"> <i>This is way too much information for the Department to request and should be double checked with the Privacy Commissioner and against privacy provisions of CFSA acts that prohibit the sharing of children's information to accommodate billing and other matters not related to the best interests of the child.</i> 	<ul style="list-style-type: none"> The Program is not requiring the information indicated; rather, these questions are examples meant to guide funding recipients on eligibility of activities and costs and assist with the reimbursement process for actuals related to prevention/least disruptive measures. The Program in not requesting personal information about specific cases or individuals, therefore, there are no implication in relation to the Privacy Act.
Page 7 Prevention Planning	<p>Although prevention/least disruptive measures expenses may be subject to reimbursement under the February 1, 2018, CHRT decision, it is strongly recommended that prevention activities and associated costs be identified in a multi-year plan.</p>	<ul style="list-style-type: none"> <i>Why- there is no such requirement in the CHRT. We have also challenged the utility of these multi-year plans and ISC has not responded with a convincing reason as to why such plans are required.</i> 	<ul style="list-style-type: none"> Removed the word <i>*strongly*</i> recommended to ensure that there are no perceived requirement on Multi-Year Plans.

Page 7 Prevention Planning	<p>Accordingly, the FNCFS Program supports prevention/least disruptive measures programming that is culturally-appropriate, thoughtful and deliberate, where initiatives are planned that support reducing/preventing imminent risk of child maltreatment and provides services to those most at risk or those who most need it first. Through its multi-year planning process, a FNCFS agency is encouraged to research and consult with the community to:</p> <ul style="list-style-type: none"> • identify the risk factors to be alleviated and the protective factors to be developed; • ... 	<ul style="list-style-type: none"> • <i>See previous comments - this is inconsistent with child welfare law.</i> 	<ul style="list-style-type: none"> • No changes as the language used is consistent with the Terms and Conditions of the FNCFS Program.
Page 8 Prevention Planning	<p>A FNCFS agency may not be the only organization in the community that will play a role in helping to mitigate risk factors and enhance protective factors. Health service providers, educational institutions, cultural institutions, and other social service providers may offer assistance that can support the well-being of individuals, families and communities. Service providers working together are likely to be more effective and to use their respective resources more efficiently. In some cases, <u>building connections</u>, and working to strengthen ...</p>	<ul style="list-style-type: none"> • <i>To what degree with ISC deny claims on this basis?</i> • <i>What about stacking provisions?</i> 	<ul style="list-style-type: none"> • The Program does not determine eligibility based on the involvement of other, if any, stakeholders and/or departments/organizations in communities. Eligibility is solely based on the Program's Terms and Conditions and the CHRT orders. • Stacking provisions are outlined in Treasury Board Directive on Transfer Payments, as well as the Program Terms and Conditions and also included in funding agreements.
Page 8 Reporting	<p>As of April 2019, a new Data Collection Instrument (DCI) has been made available, in both online and paper formats, to enable</p>	<ul style="list-style-type: none"> • <i>Has this been screened by the Privacy Commissioner and against</i> 	<ul style="list-style-type: none"> • Internal consultations regarding the privacy implications have determined that there are no privacy implications and risks as the DCI does not capture personal information.

	reporting on prevention/least disruptive measures activities as well as on additional child welfare indicators.	<i>provincial/territorial child welfare legislation and C-92</i>	
Page 9 Reporting	While the program outcomes and the indicators have been established within the national context, each agency is encouraged to develop its own performance indicators that are specific to the priorities of the agency and the communities it serves. These indicators should be documented in the agency's multi-year plan and its annual report.	<ul style="list-style-type: none"> • <i>These outcomes were not agreed to by CCCW or NAC.</i> 	<ul style="list-style-type: none"> • The Program outcomes are from the Terms and Conditions which were developed in consultation with the NAC and the CCCW. • ISC acknowledges that these outcomes are subject to changes and we will continue to work with the Parties to develop other meaningful outcomes. However, for the time being, these are the outcomes that have been approved, and all activities that recipients undertake must be working towards achieving these outcomes. • Above and beyond FNCFS, ISC encourages Recipients to develop outcomes and indicators that reflect the needs of the communities they serve.
Page 10-11 Annex A – Risk & Protective Factors	Child maltreatment is a complex issue. Factors ¹ that will increase a child's risk of being abused or neglected may be related to the child's characteristics or those of their family, the community in which they live, or inequities in public services and social policies. Risk indicators, or factors associated with an increased likelihood of maltreatment, vary for the different types of abuse or neglect. It is important to recognize that many people who have risk factors for maltreatment do not go on to maltreat children.	<ul style="list-style-type: none"> • <i>CIS shows that child characteristics are not significant in decisions to substantiate child maltreatment. Most of the significant factors are at the household level driven by structural issues.</i> • <i>First Nations are significantly over-represented for neglect – more particularly failure to supervise and failure to meet needs both of which are highly correlated to poverty and poor housing. It is important to be more precise- to an untrained eye – this statement presumes an even distribution of child maltreatment types.</i> • <i>What source was used for these and were these culturally validated for First Nations?</i> 	<p>The Program used the Canadian Incidence Study as a source of information.</p> <p>According to the Canadian Incidence Study of Reported Child Abuse and Neglect (2008) the most significant risk factors for substantiated child maltreatment investigation in Canada are exposure to intimate partner violence and neglect. Physical Abuse was second and emotional maltreatment and sexual abuse follow.</p> <p>Examples of risk factors and protective factors are based from Centers for Disease Control and Prevention's website: https://www.cdc.gov/violenceprevention/childabuseandneglect/riskprotectivefactors.html</p>

<p>Page 10 Annex A – Examples of Risk Factors</p>		<ul style="list-style-type: none"> <i>This list does not account for the fact that different risk factors contribute to different forms of maltreatment and the larger the number of risk factors the larger the risk of child maltreatment. It also does not include the strong findings of the secondary analysis of the CIS specific to FN kids and the risk factors they experience.</i> 	<p>Above information responds to comment. Examples of risk factors and protective factors are based from Centers for Disease Control and Prevention's website: https://www.cdc.gov/violenceprevention/childabuseandneglect/riskprotectivefactors.html</p>
<p>Page 12 Annex B – Recommended Resources</p>	<p>Center for the Study of Social Policy: The Strengthening Families Approach and Protective Factors Framework - https://cssp.org/wp-content/uploads/2018/11/Branching-Out-and-Reaching-Deeper.pdf</p>	<ul style="list-style-type: none"> <i>Any peer review articles? What about the CIS ? Why are the structural factors identified in the WHO report, CWLC, Caring Society paper and in CIS not specifically identified in the above text?</i> 	<p>More references have been added to the list of resources, including the CIS.</p>
<p>Page 12 Annex B – Recommended Resources</p>	<p>Ministry of Children and Family Development <i>British Columbia</i> - Running head: EARLY INTERVENTION AND PREVENTION</p>	<ul style="list-style-type: none"> <i>This is a Master paper not a published article</i> 	<p>The list included is to provide resources to Agencies that could serve as information.</p>
<p>Page 12 Annex B – Recommended Resources</p>	<p>Child Welfare League of Canada www.cwlc.ca</p>	<ul style="list-style-type: none"> <i>This document supports the Spirit Bear plan and redress of structural inequalities but that is not dealt with in the text.</i> 	<p>Noted.</p>
<p>Page 12 Annex B – Recommended Resources</p>	<p>Centre of Excellence for Child Welfare www.cecw-cepb.ca</p>	<ul style="list-style-type: none"> <i>I was one of the members of this group but it was defunded by Canada well over a decade ago. While some materials may be relevant they are dated.</i> 	<p>Noted.</p>

This is **Exhibit "5"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a vertical line, is written over a horizontal line.

A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia

***COMMUNITY WELL-BEING
AND JURISDICTION
INITIATIVES***

Guidelines

***First Nations Child and Family Services Program
Indigenous Services Canada
August 2018***

COMMUNITY WELL-BEING AND JURISDICTION INITIATIVES

Introduction

The objective of the First Nations Child and Family Services Program is to strengthen the safety and well-being of First Nations children and their families ordinarily resident on reserve by funding culturally-appropriate prevention and protection services for child welfare that are in keeping with the best interests of the child, as determined by the community.

As part of ongoing efforts toward program reform, a portion of Budget 2018 funds are being allocated to a Community Well-Being and Jurisdiction Initiative (CWJI) funding stream. This new, innovative funding stream will be focused on prevention activities to help families at risk stay together in their communities whenever possible (Community Well-Being), and to allow communities to exercise their jurisdiction for child and family services (Jurisdiction). All investments will continue to support community-led, culturally-appropriate prevention services as a core element of the FNCFS program.

The purpose of this document is to provide information to guide the implementation of funding under the Community Well-Being and Jurisdiction Initiative.

Objective and expected results

The Department is funding Community Well-Being and Jurisdiction Initiatives across the country. These will support First Nation communities to lead the development and delivery of prevention services and for First Nations communities to assert greater control over the well-being of their children and families.

Outcomes focus on safe, healthy children and families being supported by communities able to identify and address child and family needs.

Initiatives can be up to five years in duration, and can be designed to work independently or in collaboration with prevention activities provided by FNCFS agencies or other service providers. Where possible, initiatives may leverage other resources. Measurement of outcomes for each initiative is required to evaluate the success of prevention efforts.

Eligible Applicants

Eligible recipients for this funding include:

- Chiefs and Councils of First Nations bands recognized by the Minister of Indian Affairs and Northern Development;
- Tribal Councils;
- First Nations communities;
- First Nations authority, board, committee or other entity approved by Chief and Council; and
- First Nations, First Nation organizations, or organizations supported by First Nations applying to deliver capacity building activities under CWJI.

Eligible Initiatives and Assessment Criteria¹

1. Initiatives focus on child, family and community well-being within the context of Indigenous culture and language; or
2. Targeted prevention activities/services and healing interventions that support children and families in the home and community (such as parent education programs, family supports or family preservation supports, cultural and traditional supports, in home supports, respite care, services for mental health and addictions, and community prevention efforts); or
3. Wrap around services and integrated service delivery with other relevant federal or provincial/territorial sectors or programs such as; health, education, social services, public safety/corrections and/or youth services; or
4. Repatriation and reunification of children and youth in care with their families and home communities, including support services for 'aging out youth and young adults' transitioning from the child welfare system; or
5. Testing of new jurisdictional and/or community development models for child and family services to support child and family well-being, for example, Working Groups that support and advance governance and jurisdiction discussions; or
6. Services or funding to support data collection, research, and outcome-based reviews; or Other related priorities as identified by regional tables / other regional First Nations organizations.

Eligible Expenditures

Eligible expenditures include, but are not limited to: salaries/wages (including Elders), equipment and supplies, information documents and Web services, facility rentals, travel, professional fees (facilitator/trainer);, legal fees, expenses which support capacity building and the sustainability of programs and administration costs.

Total Canadian Government Funding and Stacking Limits

Proposals or project plans for funding from each recipient shall address the requirement for the recipient to declare any and all prospective sources of funding for the eligible initiative(s), inclusive of all federal, provincial, territorial or municipal governments (total government assistance) and other sources that are expected to be received. Annual financial reporting shall show all sources of funding received. Provision for repayment shall be included in the funding arrangements. Maximum funding by Indigenous Services Canada and maximum total government assistance is 100% for eligible initiative(s).

Method for Determining Funding

Funding decision-making processes will vary by region and will be determined either by the regional table or by the regional office of Indigenous Services Canada (ISC) in consultation with regional First Nations organizations. The activities contained in the proposal or project plan will be assessed against criteria set out above as determined by regional tables, or by the regional office of ISC in consultation with regional First Nations organizations.

¹ Note: First Nations communities served by an FNCFS agency will be encouraged, wherever possible, to work with their FNCFS agency on prevention activities/services.

Application Requirements

The initiative proposal or project plans must demonstrate:

- A target audience (children, youth, and/or families, communities);
- Objectives, milestones and results to support the evidence of the initiative's progress.
- A specific need (addressing risk factors, community and/or family well-being, protection issues, high number of children in care, and/or prevention efforts);
- A budget with detail on activities and expenditures, including information about other contributions from other departments/programs or jurisdictions;
- An evaluation or performance measurement outcome and process;
- Tangible results with community participation; and,
- A knowledge sharing plan to highlight best-practices so that lessons learned from the initiative can be shared and used across communities.

Applicants can use the attached template (**See Annex A: Application**) or can submit a proposal in another format as long as the proposal addresses the criteria outlined above.

Applicants are asked to submit their initiative proposal or project plan to their regional Indigenous Services Canada, First Nations Children and Family Services office.

Annex A: Sample Application (may be adjusted regionally as appropriate)

COMMUNITY WELL-BEING AND JURISDICTION INITIATIVES APPLICATION GUIDE		
Department of Indigenous Services Canada		
Part 1 – Organization Information		
Recipient Name		
Recipient Number	Organization Type <i>For example: <u>First Nations Community</u>; <u>Tribal and Band Council</u>; <u>Health or Social Service Organization</u></i>	
Address		
Province		Postal Code
Phone Number ()		E-mail Address
Organization Contact		
Given Name	Family Name	Title
Phone Number		Email Address
Date	Submitted to	
Part 2 – Initiative Description		
Initiative Name		
Theme Choose the most appropriate theme(s) for your initiative: <ol style="list-style-type: none"> 1. Child, family and community well-being 2. Prevention and healing activities 3. Integrated and wrap around services to support families 4. Repatriation and reunification of children and youth in care or supports for aging out youth 5. Jurisdictional models for child and family services to support child and family well-being 6. Other (as determined in consultation with regional tripartite tables and/or communities). 		
Initiative Duration Insert the planned start and end date of the initiative. CWJI initiatives are funded up to 5 years.		
Target Audience Please identify the target audience (e.g. children and youth at risk, children and youth in general, families at risk, community members).		
Location List the communities that would be served by the initiative.		
Collaboration List other organizations, including First Nations Child and Family Service agencies, which you will work with to deliver the initiative.		

Initiative Description	Objective Describe the objective of the initiative. Identify the need of the community(ies) (e.g. risk factors in community, high number of children in care, lack of parenting or prevention support etc.) and describe how the initiative would address it and how it would be linked to your broader community plan/priority.
	Initiative Activities and Delivery Methods Please describe the proposed initiative activities. Initiative activities are the steps that will be taken to meet the objectives of the initiative. Activities should be specific, measurable, realistic and relevant to the initiative's objectives and demonstrate how the objective will be achieved. Please include details about how the initiative will be delivered. For example, will there be third-party agreements, or will the organization deliver all aspects of the initiative? Describe how you will work with other sectors or partners (such as the FNCFS agencies) to deliver your initiative. In addition, note if you will use other contributions from other departments/programs or jurisdictions.
Timelines and Milestones Your initiative should be broken down into various steps (milestones) that reliably show your expected progress and plans to complete the initiative on time and within budget.	
Item	Target Date

Part 3 – Budget		
Item	(\$) Amount Per Year	(\$) Total
Equipment and Supplies		
Information, Documents, Web		
Facility Rentals		
Travel		
Professional Fees (Facilitator/Trainer)		
Administration Costs		
Salaries/Wages		
Others (Specify):		
Total:		

Part 4 – Outcomes and Indicators

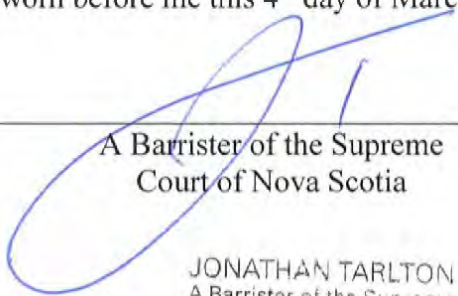
Please identify the expected outcome(s) and include the mandatory indicators for the theme you selected as per the **OUTCOMES AND INDICATORS SECTION** of this document. Add any additional (potential) indicators that may measure the success of your initiative. If the mandatory indicator is not applicable to your initiative, please insert a short explanation in the methodology column.

Expected Outcomes

List your expected outcomes of your initiative.

Indicator	Baseline	Target	Methodology
1. Number of First Nations children and families on reserve who have been assisted through culturally appropriate prevention activities. (Theme 1 and 2)			
2. Number of clients served through a wrap-around process (Theme 3)			
3. Number of children/youth served through the repatriation and/or reunification initiative. (Theme 4)			
4. Number of communities who have been engaged to participate in innovative solutions. (Theme 5)			
5. Other (potential) indicators. (Please identify the theme that best suits this indicator)			

This is **Exhibit "6A"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia

Indigenous and Northern Affairs Canada

Home → Topics → About Indigenous and Northern Affairs Canada → Activities and Responsibilities → Transfer Payments

→ Transfer Payments - Terms and Conditions → Terms and Conditions for INAC Transfer Payments

→ Contributions to provide women, children and families with Protection and Prevention Services

Contributions to provide women, children and families with Protection and Prevention Services

The Government of Canada is working to reform the First Nations Child and Family Services Program. The government is working closely with key partners on reform, including First Nation communities, leaders, organizations, provincial governments and the Yukon government, First Nations child and family services agencies, and front-line service providers. All of these partners have important voices and perspectives that must be heard and considered in order to make changes that will best serve the needs of First Nations children and families on reserve.

Minor amendments are being made, including on the description of the program's funding approach, to the First Nations Child and Family Services Terms and Conditions as an interim measure. These Terms and Conditions and other guiding documents will be further revised as program reform takes place.

i Transfer Payment Program Terms and Conditions

All policy clarification and further detail can be found in the National Social Programs Manual.

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- 1. Summary
- 2. Legal And Policy Authority
- 3. Purpose, Program Objectives And Expected Results
- 4. Eligible Recipients
- 5. Eligible Initiatives and Projects
- 6. Type and Nature of Eligible Expenditures
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1. Summary

The Department of Indian Affairs and Northern Development (DIAND) provides funding for social services as a matter of policy.

Contributions to eligible recipients under the:

- Family Violence Prevention Program (FVPP) are intended to fund family violence services responsive to community needs. The primary objective is to support women, children and families living on-reserve with family violence shelter services through funding to core shelter operations. The secondary objective is to support family violence prevention activities through funding to Aboriginal communities and organizations.
- First Nation Child and Family Services (FNCFS) are intended to ensure the safety and well-being of First Nations children ordinarily resident on-reserve. The FNCFS (First Nation Child and Family Services) Program supports the delivery of culturally appropriate prevention and protection services for First Nations children and families, in accordance with the legislation and standards of the province or territory of residence within program authorities. All children are protected by provincial or territorial child welfare legislation as child and family services are matters of provincial or territorial jurisdiction. Provinces and territories can delegate authority for child welfare to service providers both on and off reserve and are responsible for ensuring that they comply with provincial legislation and standards.
 - Social Development Program Management Infrastructure Initiative (SDPMII) are intended to provide financial assistance to recipients to assist them to identify models of effective management and accountability for social development programs that will lead to more effective, cost-efficient and accountable social development programming.

Contribution funding for both FVPP (Family Violence Prevention Program) and FNCFS (First Nation Child and Family Services) is mainly targeted to clients who are ordinarily resident on reserve or who, for the purposes of these programs, are deemed to be ordinarily resident on-reserve in a province or Yukon Territory. FVPP also funds prevention and awareness activities for Aboriginal communities and organizations (First Nations, Métis and Inuit) off-reserve.

Effective April 1, 2011, these programs have been using the set or fixed contribution funding approaches for transfer payments to Aboriginal recipients, as described in the Directive on Transfer Payments (Appendix K: Transfer Payments to Aboriginal Recipients) and according to departmental guidelines for the management of transfer payments. The Alternative Funding Arrangement (AFA) and Flexible Transfer Payment (FTP) mechanisms will remain in effect, as required, until the expiration of existing funding arrangements that utilize these mechanisms.

In addition to the above, the FVPP (Family Violence Prevention Program) and certain streams of funding under FNCFS (First Nation Child and Family Services) may use the flexible contribution funding approach effective April 1, 2012.

2. Legal and Policy Authority

The following Cabinet and policy decisions support the FVPP (Family Violence Prevention Program) and FNCFS (First Nation Child and Family Services) programs and are grouped by the program respectively, where required.

- Department of Indian Affairs and Northern Development Act, R.S.C. (Revised Statutes of Canada), 1985, c. (chapter) I-6, s.4.; and
- Payments made by DIAND (Department of Indian Affairs and Northern Development) pursuant to the Ontario "1965 Memorandum of Agreement Respecting Welfare Programs for Indians", also known as the "1965 Welfare Agreement (Ontario)", and the "Administrative Reform Agreement with the Province of Alberta (1991)" also known as the "Alberta Reform Agreement", are subject to these Terms and Conditions. Where the Agreements differ from the Terms and Conditions, the Agreements will prevail.

FVPP (Family Violence Prevention Program) :

In addition to the above policy authority is also found in:

- Budget 2012
- Budget 2013

FNCFS (First Nation Child and Family Services) :

In addition to the above policy authority is also found in:

- Budget 2010

3. Purpose, Objectives and Expected Results

Performance indicators that apply to these programs are found in the Social Development Programs Performance Measurement Strategy. These programs contribute to one or more of the following expected outcomes:

- eligible men, women and children's basic and special needs are met;
- men, women and children are safe; and,
- men and women are employable and able to become and/or remain attached to the workforce.

These outcomes are directly aligned with the program activity and sub activities in DIAND (Department of Indian Affairs and Northern Development)'s Program Activity Architecture. These programs fall under the "People" strategic outcome, the long-term objective of which is contributing to the "Individual, family and community well-being for First Nations and Inuit."

The Department of Indian Affairs and Northern Development (DIAND) provides funding for social services on reserve including the Family Violence Prevention Program and the First Nations Child and Family Services Program. These two programs mainly aim to fund protection and prevention services for women, children and families ordinarily resident on-reserve. First Nations, provincial or territorial representatives and other recipients who receive funding provide on reserve residents and Yukon First Nations with individual and family services that are developed and implemented in collaboration with partners. The intention of these programs is to assist First Nation individuals and communities to become more self-sufficient; protect individuals and families at risk of violence; and to provide prevention supports that allow individuals and families to better care for their children. First Nations that are engaged in advancing their own development are better equipped to leverage opportunities made available by their communities and actively contribute to the broader Canadian economy and society.

4. Eligible Recipients

Table 1: FVPP (Family Violence Prevention Program) and FNCFS (First Nation Child and Family Services) Program Eligible Recipients

Eligible Recipients	<u>FVPP (Family Violence Prevention Program)</u>	<u>FNCFS (First Nation Child and Family Services)</u>
Chiefs and Councils of First Nation bands recognized by the Minister of Aboriginal Affairs and Northern Development Canada	☑	☑
Tribal Councils	☑	☑
Provinces	☑	☑ ²
Yukon Territory	☑	☑
First Nations authority, board, committee or other entity approved by Chief and Council	☑	
Incorporated shelters	☑	

Eligible Recipients	<u>FVPP (Family Violence Prevention Program)</u>	<u>FNCFS (First Nation Child and Family Services)</u>
<u>FNCFS (First Nation Child and Family Services)</u> Agencies or Societies	☑	☑ 1 2
Aboriginal communities and organizations (First Nations, Métis and Inuit) off-reserve	☑ 3	
First Nations and First Nation organizations or organizations supported by First Nations who apply to deliver the capacity building activities under the Social Development Program Management Improvement Initiative		☑
Other delegated/designated Child and Family Service providers including provincially delegated/designated agencies and societies		☑

5. Eligible Initiatives and Projects

FVPP (Family Violence Prevention Program).....:

- Core shelter operations;
- Prevention and awareness;
- Reimbursement of provincial/territorial bills; and
- National Aboriginal Circle Against Family Violence (NACAFV).

FNCFS (First Nation Child and Family Services).....:

- Program Directive 20-1;
- Development Funding;
- Preparatory Phase for the Enhanced Prevention Focused Approach;
- The Enhanced Prevention Focused Approach (EPFA);
- Social Development Program Management Infrastructure Initiative (SDPMII);
- The 1965 Welfare Agreement (Ontario); and The 1991 Arrangement for the Funding and Administration of Social Services (Alberta Reform Agreement).

See Annex A for further information.

6. Type and Nature of Eligible Expenditures

Table 2: FVPP (Family Violence Prevention Program) and FNCFS (First Nation Child and Family Services) Program Eligible Expenditures

	<u>FVPP (Family Violence Prevention Program)</u>	<u>FNCFS (First Nation Child and Family Services)</u>

	Core shelter operations	Prevention and awareness	Operations	Prevention and Least Disruptive Measures ⁴	Maintenance ⁶	SDPMII (Social Development Program Management Infrastructure Initiative)
Staff salaries and benefits	☑	☑	☑	☑		☑
Professional development (including membership and conference fees)	☑	☑	☑	☑		☑
Board/committee operations	☑	☑	☑			
Post-adoption subsidies and supports					☑	
Direct client costs	☑				☑	
Operations, minor maintenance, upgrading and repairs of facilities ⁵	☑		☑			☑
Overhead administration costs ⁷	☑	☑	☑	☑		☑
Crisis Line	☑		☑			
Costs for children in care in placements out of the parental home					☑	
Staff travel and/or transportation	☑	☑	☑	☑		☑
Other provincially-approved purchases and professional services not covered by other funding sources					☑	
Off-hour emergency services	☑		☑			
Coordination of services at the community level						☑

Costs for training forums, workshops, outreach, awareness (including instructional and information materials)	☑	☑	☑	☑		☑
Recruitment costs	☑		☑			
Professional/ Paraprofessional services	☑	☑	☑	☑	☑	
Facilitation of tripartite discussion						☑
Special needs assessment & testing					☑	
Non-medical services to children with behavioural problems and specialized needs assessments					☑	
Legal services fees and costs	☑	☑	☑			
Insurance	☑		☑			☑
Family support services				☑		
Audits, monitoring, evaluation and policy development	☑	☑	☑			☑
Non-medical, limited-duration services				☑		
Purchases on behalf of children in care					☑	

FVPP (Family Violence Prevention Program) :

In addition to the eligible expenditures in Table 2, Provincial/Territorial Bills which include the actual costs of maintaining individuals or families ordinarily resident on reserve in some provincial or Yukon shelters, where service delivery arrangements currently exist according to provincial/territorial per diem rates and rules will be reimbursed.

FNCFS (First Nation Child and Family Services) :

In addition to the eligible expenditures in Table 2, Development (under Directive 20-1), Preparatory Phase (under the EPFA (Enhanced Prevention Focused Approach)) and Social Development Program Management Infrastructure Initiative (SDPMII) funding is also available for development and capacity projects.

See Annex A for further information.

7. Stacking Limits

The stacking limit maximum level of funding to a recipient from all sources (including federal, provincial/territorial, and/or municipal) for any one activity, initiative or project is 100 percent of eligible costs.

8. Method for Determining the Amount of Funding

FVPP (Family Violence Prevention Program) ...:

- Based on established funding formula for shelter operations and provincial/territorial bills and proposals for prevention and awareness as outlined in the National Social Programs Manual.

FNCFS (First Nation Child and Family Services) ...:

- Program Directive 20-1;
- Enhanced Prevention Focused Approach;
- Memorandum of Agreement Respecting Welfare Programs for Indians, (1965 Indian Welfare Agreement); and
- 1991 Arrangement for the Funding and Administration of Social

See Annex A for further information.

9. Maximum Amount Payable

The annual amount for each recipient will not exceed the following dollar values listed in Table 3 of this document. These levels were arrived at by conducting a review of funding levels, expenditures and departmental expertise.

Table 3: FVPP (Family Violence Prevention Program) and FNCFS (First Nation Child and Family Services) Maximum Amount Payable per Eligible Recipient (000's)

Eligible Recipients	<u>FVPP (Family Violence Prevention Program) ...:</u>		<u>FNCFS (First Nation Child and Family Services) ...:</u>			
	Core shelter operations	Prevention and awareness	Directive 20-1/ <u>EPFA (Enhanced Prevention Focused Approach) ...:</u>	1965	Alberta Reform	Development/ Preparatory and <u>SDPMII (Social Development Program Management Infrastructure Initiative) ...:</u>
Chiefs and Councils of First Nation bands	\$1,000	\$1,500	30,000	<u>N/A (not applicable)</u>	<u>N/A (not applicable)</u>	3,300
Tribal councils						
<u>FNCFS (First Nation Child and Family Services) ...:</u> Agencies and Societies						

First Nations authority , board, committee or other entity approved by Chiefs and Councils						
Provinces/Territory	Negotiated amount	N/A (not applicable)	Negotiated amount	Negotiated amount	Negotiated amount	3,300
Incorporated shelters	\$1,000	\$1,500	N/A (not applicable)	N/A (not applicable)	N/A (not applicable)	N/A (not applicable)
Aboriginal communities and organizations	N/A (not applicable)	\$1,500	N/A (not applicable)	N/A (not applicable)	N/A (not applicable)	N/A (not applicable)
FN organizations or organizations supported by First Nations	N/A (not applicable)	N/A (not applicable)	30,000	N/A (not applicable)	N/A (not applicable)	3,300
Other delegated/ designated Child and Family Service providers including provincially delegated/designated agencies and societies	N/A (not applicable)	N/A (not applicable)	30,000	N/A (not applicable)	N/A (not applicable)	3,300

10. Basis on Which Payments will be Made

Payments will be made in accordance with the type of funding Authority entered into, and will also be based on program risk, recipient risk, departmental cash management policies and agreement management policies. ⁸

Funding under both FVPP (Family Violence Prevention Program) and FNCFS (First Nation Child and Family Services) is targeted and cannot be used for any other purposes.

Table 4: FVPP (Family Violence Prevention Program) and FNCFS (First Nation Child and Family Services) Funding Authorities

Type of Funding Authority (Contribution)	<u>FVPP (Family Violence Prevention Program)</u>			<u>FNCFS (First Nation Child and Family Services)</u>			
	Core shelter operations	Prevention and Awareness	Provincial/ Territorial bills	Maintenance	Operations	Prevention/ Least Disruptive Measures	Development/ Preparatory Phase
Set	☑	☑	☑	☑			☑
Fixed	☑	☑	☑	☑	☑	☑	☑
Flexible ⁹	☑	☑	☑	☑	☑	☑	

11. Application Requirements and Assessment Criteria

Before entering into a funding arrangement, DIAND (Department of Indian Affairs and Northern Development) shall confirm its authorities to enter into an agreement with the recipient and to fund the proposed activities. The departmental review procedures for verifying eligibility, entitlement and application approval (including risk assessments) are detailed in relevant departmental program directives and procedures.

12. Monitoring and Reporting Mechanisms

The 2008 Policy on Transfer Payments requires effective monitoring and oversight for program management as follows:

Performance Measurement Strategy

To support a reduction in the reporting burden, performance measurement data will be collected using various methods and sources. Recipient requirements will be set out in departmental recipient reporting documents. Frequency of reporting will be based on recipient risk.

Financial Accountability

Financial reporting requirements will be reflected in the funding agreements and frequency will be based on the recipient risk.

13. Official Languages

Where a program supports activities that may be delivered to members of either official language community, access to services from the recipient will be provided in both official languages where there is significant demand and Part IV of the Official Languages Act is applicable. In addition, the Department will ensure that the design and the delivery of programs respect the obligations of the Government of Canada as set out in Part VII of the Official Languages Act.

14. Redistribution of Contributions

Recipients are not agents of the federal government in making redistribution of contributions. Where a recipient further distributes contribution funding to another service delivery organization (i.e. (that is) an authority, board, committee, or other entity authorized to act on behalf of the recipient), the recipient shall remain liable to the Department for the performance of its obligations under the funding agreement. Neither the objectives of the programs and services nor the expectations of transparent, fair and equitable services shall be compromised by any redistribution of contribution funding.

15. Other Terms and Conditions

Land-less Bands and Non-Reserve Communities

Subject to annual review, DIAND (Department of Indian Affairs and Northern Development) will maintain a list of land-less Bands and non-reserve communities that are eligible to receive program funding in accordance with the National Social Programs Manual.

Annex A - Eligible Initiatives and Projects

FVPP (Family Violence Prevention Program) ...:

- Shelter Operations: Core operating funding to an existing network of family violence shelters serving First Nation communities. Contribution amounts are based on a national shelter funding formula. The formula calculates a core operating budget for each shelter based on the province of operation, size and geographical location using four

expenditure factors: staff salaries and benefits (75%); operational and administrative costs (25%), and where applicable, funds to cover the costs associated with remoteness and emergency needs.

- Prevention and awareness: Family violence prevention activities targeting Aboriginal communities and organizations such as public outreach and awareness, conferences, seminars, workshops, support groups, and community needs assessments. Effective April 1, 2012 contribution amounts will be based on strategic funding approaches to support project proposals subject to funding availability.
- Provincial/territorial bills: In some provinces and Yukon, where service delivery arrangements currently exist, reimbursement of the actual costs of maintaining an individual or family ordinarily resident on-reserve in a provincial/territorial family violence shelter at provincial/territorial per diem rates and rules. Contribution amounts to provinces and Yukon Territory are based on the actual costs of maintaining an individual or family ordinarily resident on-reserve in some provincial and Yukon family violence shelters based on provincial/territorial per diem rates and rules.
- National Aboriginal Circle Against Family Violence (NACAFV): Core funding for NACAFV (National Aboriginal Circle Against Family Violence) to provide support to shelters and their staff through training forums, gatherings and development/distribution of resources and research.

FNCFS (First Nation Child and Family Services) ...:

- Program Directive 20-1 which has been in place since the early 1990's and funds strictly according to a formula for operations (including prevention services), operating costs of Recipients (including prevention/least disruptive measures) and reimburses for eligible maintenance expenditures, based on actual costs. Operations funding formula is based on 0-18 years of age child population and outlined in the DIAND (Department of Indian Affairs and Northern Development) Program Directive 20-1 Chapter 5 as well as the National Social Programs Manual. Maintenance funding is reimbursed based on actual eligible expenditures within departmental authorities.
- Development Funding: As part of Program Directive 20-1, funding may be made available for the planning and start-up costs for new Agencies which are assuming the responsibility for the direct administration of Child and Family Services from the Province or Territory. Those First Nations wishing to separate and create a new eligible funding recipient (FNCFS (First Nation Child and Family Services) agency) or wishing to leave one eligible funding recipient (FNCFS (First Nation Child and Family Services) agency) and join another are not eligible for development funding. Development funding is only available to a group that has not yet become operational as an agency and is not available to First Nations who are currently receiving services as a member of an existing eligible funding recipient. Development funding will be approved based on project proposals/ workplans and can be utilized for the following costs associated with the establishment of new FNCFS (First Nation Child and Family Services) Agencies:
 - allowances for assessment;
 - community consultations;
 - design of service and delivery models;
 - financial policy research;
 - development of service standards;
 - negotiation of agreements;
 - identification of staffing requirements;
 - development of staffing;
 - staffing;
 - establishment of agency office;
 - purchasing of equipment and furniture; and
 - orientation and initial training of local committees, boards of directors and agency staff.
- Preparatory phase: For those jurisdictions that are preparing to transition to the EPFA (Enhanced Prevention Focused Approach), DIAND (Department of Indian Affairs and Northern Development) may provide 1-2 years of support to recipients in the development of community approaches to enhanced prevention. DIAND (Department

of Indian Affairs and Northern Development) will also assist recipients at this time in the development of viable business plans. Throughout this phase operations and prevention funding will be based on a 0-18 years of age child population outlined in the DIAND (Department of Indian Affairs and Northern Development) Program Directive 20-1 and maintenance will be based on prior year's reconciled expenditures as per the EPFA (Enhanced Prevention Focused Approach). Funding will be approved based on project proposals/workplans.

- The Enhanced Prevention Focused Approach provides greater accountability for existing and additional resources, moving DIAND (Department of Indian Affairs and Northern Development) towards a Targeted FNCFSS (First Nation Child and Family Services) Funding Approach. EPFA (Enhanced Prevention Focused Approach) funds based on three streams (operations, maintenance and prevention), which are based upon reasonable provincial comparability within the department's authorities. For those provinces or Yukon Territory where recipients have shown an interest in transitioning to the EPFA (Enhanced Prevention Focused Approach) they are required to collaboratively develop and agree upon a Tripartite Accountability Framework with DIAND (Department of Indian Affairs and Northern Development) and relevant First Nations stakeholders.

Funding for Prevention and Operation activities are formula driven based on a cost-model developed at regional tripartite tables and are consistent with reasonable comparability to the respective province or territory within DIAND (Department of Indian Affairs and Northern Development)'s program authority. Maintenance funding allocations are based on prior year's reconciled expenditures (actuals). Payments are made based on a cash flow forecast. The recipient will provide annually an audited financial statement 120 days after year-end and statement of progress against the achievement of performance objectives at the time of claiming for a payment. Funds are only eligible for use for child and family services (CFS), but Recipients have the ability to move funding between the three streams. This funding model provides a better range of placement options including kinship care (care provided by extended family members) and post-adoption subsidies (monthly payments to the adoptive parents) and supports (including counselling services and special needs support for children with disabilities) to encourage permanent placement for children. The EPFA (Enhanced Prevention Focused Approach) is being implemented on a jurisdiction-by-jurisdiction basis, pursuant to policy and funding approval.

- Social Development Program Management Infrastructure Initiative (SDPMII) is a DIAND (Department of Indian Affairs and Northern Development) initiative that identifies models of effective management and accountability for social development programs funded by DIAND (Department of Indian Affairs and Northern Development) that will lead to effective, cost-efficient and accountable social development programming on reserves. This initiative will prioritize strategic investment of resources to support both small and large agencies. SDPMIL (Social Development Program Management Infrastructure Initiative) is a separate initiative, where Indian Bands and/or First Nation organizations that are eligible for the Social Development Program Management Infrastructure Initiative are those with a population catchment of at least 1,400 and meet the following criteria:
 1. show interface/linkages with provincial/territorial and/or federal programs; and,
 2. demonstrate the capacity to perform specified functions.

In addition to the above funding mechanisms, DIAND (Department of Indian Affairs and Northern Development) also funds in the following ways:

- The 1965 Welfare Agreement (Ontario) is an agreement where DIAND (Department of Indian Affairs and Northern Development) reimburses the Province of Ontario for the costs of social services, including child welfare services, provided to First Nation people ordinarily resident on-reserve. Payments are for services approved for cost-sharing by DIAND (Department of Indian Affairs and Northern Development), and are cost-shared according to a formula calculated annually. Currently, DIAND (Department of Indian Affairs and Northern Development) pays approximately 93% of these costs. The Province of Ontario pays the difference, or approximately 7% of the costs, to make up 100%. Ten percent of payments are held back pending the completion of an audit process.
- The 1991 Arrangement for the Funding and Administration of Social Services (Alberta Reform Agreement) is an agreement where DIAND (Department of Indian Affairs and Northern Development) reimburses the Province of Alberta for social services that are delivered to First Nations ordinarily resident on-reserve. Alberta will deliver to

Canada a budget of anticipated expenditures, prior to the commencement of each fiscal year. Upon acceptance, Canada and Alberta will enter into an annual funding agreement, which will flow funds to Alberta monthly, at a rate equivalent to one twelfth (1/12) of the accepted expenditure budget, and subject to quarterly adjustments based on invoices submitted. These conditions are set out in an annual funding arrangement. The Alberta Agreement also applies a provision for holdback of 10%. In view of the small number of non-First Nations people ordinarily residing on Reserves, Canada will also fund and deliver Social Services for non-First Nations where the amount funded does not exceed the five percent (5%) of the amount paid by Canada for all Social Services on that Reserve.

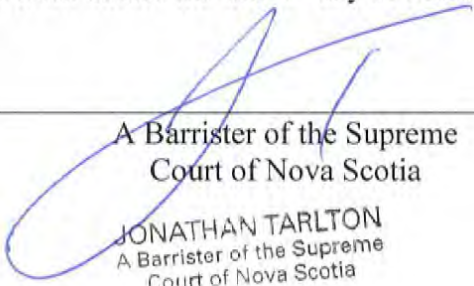
Footnotes

- 1 To be eligible to receive operations, prevention/least disruptive measures and maintenance funding under FNCFS, all eligible recipients must be duly delegated/designated by a province or territory or employ individuals that are duly delegated/designated to deliver Child and Family Services on reserve in accordance with provincial or territorial legislation and standards. However, those groups, who are still in the development phase and therefore have not been delegated/ designated, must accept the premise that delegation/designation by the province is necessary and refusal will result in no funding.
- 2 In the case of all recipients other than a province or the Yukon Territory, DIAND will confirm that Band Council Resolutions and Tripartite or Bilateral Agreements with the province or Yukon Territory are in place in order to confirm that the recipient is eligible and is acting on behalf of the First Nation(s) for whom services are being funded. In the case of a Province or the Yukon Territory, DIAND will confirm that it is not already funding any other eligible recipient to provide the same services to the same First Nation communities. If the applicant meets these requirements, the applicant will be required to provide a complete review of its accountability and management processes and systems. This review shall be based upon DIAND's Transfer Payments Management Control Framework.
- 3 Eligibility is limited to funding for prevention and awareness.
- 4 Funding under the Prevention and Least Disruptive Measures column is available only for those under EPFA or those who are currently in the preparatory phase. Prevention and Least Distribution Measures for those under Directive 20-1 is funded under Operations.
- 5 Leasehold improvements may only be used for minor capital projects.
- 6 Maintenance expenditures are determined in accordance with provincial and Yukon Territory rates.
- 7 Overhead administration costs may include security costs, appliances, furniture, supplies, equipment (including IT equipment), rent and mortgage.
- 8 Funding agreements may be subject to flexible funding options. Use will be determined based on an assessment of recipient risk. (For FNCFS, use of flexible funding agreement will be limited to operations and prevention.)
- 9 Example 2 of a standard footnote that refers only to the word before it.

Date modified:

2015-04-21

This is **Exhibit "6B"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia

Contributions to provide women, children and families with Protection and Prevention Services

1. Introduction

Through its Social Development Program, Indigenous Services Canada (the Department) administers the provision of social services that contribute to individual, family and community well-being for First Nations. Eligible program recipients include First Nations, First Nations organizations, provinces and territories, and other service providers authorized by the Department and on consent of First Nations. The Department provides funding for social services on reserve including the **Family Violence Prevention Program (FVPP)** and the **First Nations Child and Family Services (FNCFS)** program.

FNCFS oversees and provides contribution funds for the ongoing provision of culturally-appropriate prevention, protection and well-being services for First Nations children¹ and families on reserve. In the case of child protection and band representatives in Ontario, services are provided in accordance with the legislation and standards of the province or territory of residence.² The safety and best interest of the child are paramount in the provision of these services. FVPP funding is intended for family violence services responsive to community needs. The primary objective of FVPP is to support women, children and families living on-reserve with family violence shelter services through funding to core shelter operations. The secondary objective is to support family violence prevention activities through funding to Indigenous communities and organizations. FVPP also funds prevention and awareness activities for Indigenous communities and organizations (First Nations, Métis and Inuit) off-reserve. These programs are intended for Indigenous people.

The FNCFS program is now intended to emphasize the use of preventive, early intervention and least intrusive measures in order to respond to child maltreatment (abuse or neglect), support for family preservation and well-being, maintenance of family, cultural and linguistic connections for children in care, former children in care (post-majority), and community wellness using a community supported approach. It also promotes a collaborative relationship between communities and agencies. The introduction of a new funding stream within FNCFS for Community Well-being and Jurisdiction Initiatives (CWJI) is designed to enable projects of up to five years in duration to expand the availability of prevention and well-being initiatives that are responsive to community needs, and to support First Nations in developing and implementing jurisdictional models.

¹ Children are defined as persons under the age of majority, i.e., the age at which a person is granted the rights and responsibilities of an adult, in accordance with provincial or territorial legislation. Services may also be provided to First Nations youth formerly in care after they reach the age of majority pursuant to legislative provisions regarding post-majority care.

² As provinces and territories have jurisdiction over child and family services, all child and family service providers must be delegated or in the process of delegation by the province or territory and must comply, at minimum, with provincial or territorial legislation and standards.

With program reform, services under the FNCFS program will be provided on the basis of substantive equality to address the specific needs and circumstances of First Nations children and families living on-reserve – including their cultural, historical and geographical needs and circumstances – in a manner that accounts for cost drivers related to inflation and increased needs or numbers of children in care and their families. The program also needs to provide paramountcy to the safety and best interest of the child. In order to provide equal opportunity and achieve equitable results and outcomes, the program supports variations in service requirements and methods of service provision.

Fixed and flexible funding approaches through contribution agreements are available for the FNCFS program, as described in the Directive on Transfer Payments (Appendix K: Transfer Payments to Aboriginal Recipients). CWJI projects will also be managed through multi-year contribution agreements. The CWJI is a funding stream of FNCFS, whereas the FVPP is a distinct but complementary program.

Should this Treasury Board Submission be approved, these terms and conditions will be effective immediately upon approval.

2. Authority

FVPP and FNCFS are delivered under the authority of the *Department of Indian Affairs and Northern Development Act*, R.S.C., 1985, c. I-6, s.4., which provides the Minister of Indian Affairs and Northern Development with powers, duties and functions that extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to:

- (a) Indian affairs;
- (b) Yukon, the Northwest Territories and Nunavut, and their resources and affairs; and,
- (c) Inuit affairs.

The Canadian Human Rights Tribunal orders relating to the FNCFS program are as follows:

- The Tribunal's January 26, 2016 Order (2016 CHRT 2) to cease its discriminatory practices with respect to First Nations child welfare and reform the FNCFS program and *1965 Agreement* to comply with the Tribunal's findings.
- The Tribunal's April 26, 2016 Order (2016 CHRT 10) to immediately take measures to address:
 - incentives in the FNCFS program to remove children from their homes and communities;
 - the funding of FNCFS agency operations budgets based on assumptions regarding population thresholds and children in care;
 - reductions in operations budgets for small and remote FNCFS agencies that affect these agencies' ability to provide effective programming, respond to emergencies, and put some small and remote agencies at risk of closing;
 - bringing the FNCFS program in line with current provincial child welfare legislation and standards;

- the need for adjustments to funding for inflation/cost of living or changing service standards to help address increased costs over time and to ensure that prevention-based investments more closely match the full continuum of services provided off-reserve; and
- funding deficiencies for items such as salaries and benefits, training, cost of living, legal costs, insurance premiums, travel, remoteness, multiple offices, capital infrastructure, culturally appropriate programs and services, band representatives and least disruptive measures.
- The Tribunal's September 14, 2016 Order (2016 CHRT 16):
 - not to decrease or further restrict funding for First Nations child and family services;
 - to determine budgets for each FNCFS Agency based on an evaluation of that Agency's distinct needs and circumstances, including an appropriate evaluation of remoteness;
 - to establish the assumption of 6% of First Nations children in care and 20% of families in need of services as minimum assumptions only and to determine funding for FNCFS agencies with rates of First Nations children in care and families in need exceeding these assumptions in accordance with the actual level of children in care and families in need;
 - to cease formulaically reducing funding for FNCFS agencies serving fewer than 251 eligible children and instead determine funding based on actual service level needs, regardless of population level; and
 - to cease requiring FNCFS agencies to recover cost overruns related to maintenance from prevention or operations streams.
- The Tribunal's May 26, 2017 Order (2017 CHRT 14) to immediately implement the full meaning and scope of Jordan's Principle.
- The Tribunal's February 1, 2018 Order (2018 CHRT 4) to:
 - eliminate that aspect of the FNCFS program's funding formulas/models that creates an incentive resulting in unnecessary apprehension of First Nations children from their families and/or communities and cease its discriminatory practice of not fully funding the cost of prevention/least disruptive measures, building repairs, intake and investigations and legal fees in child welfare;
 - to provide funding on actual costs for least disruptive measures/prevention, building repairs, intake and investigations and legal fees in child welfare;
 - to provide funding on actual costs for child service purchase in child welfare;
 - to provide funding on actual costs for small FNCFS agencies; and
 - to provide funding on actual costs for Band Representative Services for Ontario First Nations.

Authority is also conveyed through the following:

- *Cabinet decision (December 1965)* - Social services delivery agreement with the Province of Ontario (resulting in the "1965 Memorandum of Agreement Respecting Welfare Programs for Indians," also known as the 1965 Welfare Agreement (Ontario));
- *Cabinet decision (March 1997)* to consider the Innu people at the communities of Sheshatshiu and Davis Inlet as if they were Registered Indians on reserve land, for the purpose of providing them with programs and services;
- "Administrative Reform Agreement with the Province of Alberta (1991)," also known as the "Alberta Reform Agreement;"

- *Cabinet decision (December 2004)* - Stabilization for First Nations Child and Family Services;
- *Cabinet decision (February 2007)* - National policy authorities and incremental investments for the First Nations Child and Family Services program in Alberta;
- *Treasury Board decision (March 2007)* - National transfer payment authorities and incremental investments for the First Nations Child and Family Services Program in Alberta;
- *Treasury Board decision (April 2007)* - Approval of renewed national transfer payment terms and conditions for the First Nations Child and Family Services Program and incremental investments in Alberta 2007-2008; and,
- *Treasury Board decision (October 2016)* - Funding to support urgent investment in the First Nations Child and Family Services Program.
- Policy authority for the FVPP is also found in Budget 2012, Budget 2013 and Budget 2016.

3. Purpose, Objectives and Expected Results

Indigenous Services Canada provides funding for social services on reserve including the Family Violence Prevention Program and the First Nations Child and Family Services Program. These two programs mainly aim to fund protection and prevention services for women, children and families ordinarily resident on-reserve. First Nations, provincial or territorial representatives and other recipients who receive funding provide on reserve residents and Yukon First Nations with individual and family services that are developed and implemented in collaboration with partners. The intention of these programs is to assist First Nation individuals and communities to become more self-sufficient; protect individuals and families at risk of violence; and to provide prevention supports that allow individuals and families to better care for their children. First Nations that are engaged in advancing their own development are better equipped to leverage opportunities made available by their communities and actively contribute to the broader Canadian economy and society.

FNCFS outcomes focus on safe, healthy children and families being supported by communities able to identify and address child and family needs.

Immediate (one to two years):

- First Nations families have greater access to culturally-appropriate prevention and early intervention services.
- First Nations service providers have adequate and predictable resources that allow for the development and delivery of culturally based child welfare standards and services including prevention services.

Intermediate (three to five years):

- Continuity of family, community and cultural connections is preserved for First Nations children in care.
- First Nations children in care achieve permanence and stability.

Ultimate (five years and beyond):

- The over-representation of First Nations children in care is decreased compared to the proportion of non-Indigenous children in care in the overall population of children in Canada.
- The safety and well-being of First Nations children are improved.

4. Eligible Recipients

Eligible Recipients	FNCFS – Agencies	FNCFS – CWJI	FVPP
FNCFS agencies or Societies ³ .	Yes	No	Yes
Other delegated/designated providers of child and family service providers, including provincially (or Yukon) delegated/designated agencies and societies.	Yes	No	No
Provinces and Yukon territory.	Yes	No	Yes
Chiefs and Councils of First Nation bands recognized by the Minister of Indigenous Services Canada, Tribal Councils, First Nations, and First Nation organizations.	Yes	Yes	Yes
First Nation communities, First Nations authority, board, committee or other entity created by Chief and Council for purposes such as providing social services or health care.	No	Yes	Yes
Indigenous communities and organizations (First Nations, Métis and Inuit) off-reserve.	No	No	Yes
Incorporated shelters	No	No	Yes

Prevention services may be delivered by non-delegated service providers. Communities who undertake prevention related activities and projects through the CWJI stream of funding can do so without being delegated as well.

³ Those would include agencies in the process of obtaining delegation, and those that are recognized by provinces in the delivery of CFS.

5. Eligible Initiatives and Projects

FNCFS Agencies

a. Planning

Multi-year Plans are being introduced for the 2019-20 fiscal year that will support new or existing strategic planning and coordination of efforts among child welfare service providers. Each delegated FNCFS agency is required to develop a multi-year Plan for Child and Family Services to describe the agency's response to identified needs and priorities within the community, including how service delivery will be coordinated with other service providers, and provide the expected outcomes. The Plans will also provide the FNCFS program with a better understanding of agency priorities over the medium-term and how to best support these priorities going forward. Agencies will be resourced to support the development of new or modified plans.

Services delivered by the agency should take into account the distinct needs and circumstances of the First Nations children and families served – including their cultural, historical and geographical needs and circumstances – in order to ensure substantive equality in the provision of child and family services. The Plans will assist with the integration of prevention services that an agency and potentially communities or other services providers are delivering to families.

In certain cases, FNCFS agencies may work with organizations to support First Nations children in care off reserve, including when children are being reunited with families who reside on reserve.

b. Prevention:

- Development and delivery of child maltreatment prevention services – which may be at primary, secondary and/or tertiary levels – that are evidence-informed, culturally-appropriate, address identified risk factors, and build protective capacities within families and communities. (CWJI projects can be funded with the intention to build a greater evidence base for culturally-specific interventions)
 - Primary prevention services are aimed at the community as a whole and include the ongoing promotion of public awareness and education on the healthy family and how to prevent or respond to child maltreatment.
 - Secondary prevention services are triggered when a child is identified as at risk of child maltreatment and intervention could help avoid a crisis.
 - Tertiary prevention services target specific families when a crisis or risks to a child have been identified and are designed to be least disruptive measures that attempt to mitigate the risks of separating a child from his or her family, rather than separate the child from his or her family. These services also assist families to address risks so that children in care can be reunified with their families as quickly as possible.
- Training for staff to ensure culturally-based standards for child and family service delivery.

- Cultivation of community social health and well-being through activities that address inequalities in the determinants of health, promote reductions in adverse childhood experiences, address addictions and mental health concerns that are placing children at risk, meet the needs of children and youth with disabilities and special needs, promote positive culturally-based parenting skills, provide family support, promote healthy child/youth development, and enable family preservation, especially through early intervention to avoid a more intrusive approach (such as removal from the family home).

c. Child Protection, Guardianship and Support:

- Child protection services are triggered when a child's safety or well-being is at risk. Child protection includes those services related to:
 - public education on child maltreatment;
 - assessments/investigations of child maltreatment reports (including after-hours services);
 - intervention planning (including family case conferencing);
 - alternative dispute resolution services/proceedings (e.g., family group conferencing)
 - family court;
 - supervision orders;
 - guardianship and voluntary/special needs custody agreements;
 - post-majority services for former youth in care;
 - placement, support and supervision for children/youth who cannot live safely in the family home while measures are taken with the family to remedy the situation (e.g., kinship, foster or group care, residential treatment, support for Elders and extended family members caring for children, independent living);
 - adoption and custom care;
 - reunification services;
 - extended services for youth transitioning out of care; and,
 - alternative care resource development, training, support and monitoring.
- Activities also may include community liaison and outreach, cultural/language interpretation, legal services, court support, family preservation, placement planning, standards development and implementation, policy development and implementation, and evaluation activities.
- Culturally-based standards can be developed and applied by First Nations for child welfare.

Community Well-being and Jurisdiction Initiatives

a. Community Well-being Initiatives:

- Targeted prevention and well-being services that support children and families in the home and community (e.g., parent education programs, family enhancement/preservation supports, cultural and traditional supports, in-home supports, respite care, services for mental health and addictions, community-wide prevention efforts);
- Provision of wrap-around services and integration of service delivery with other relevant federal/provincial sectors or programs, such as health, education, social services, public safety/corrections, and/or youth services; and,

- Repatriation and reunification of children and youth in care with their families and home communities, including support for youth transitioning out of the child welfare system.

b. Jurisdiction Initiatives:

- Support the development and implementation of First Nation-based jurisdiction that includes child and family safety and well-being, as well as structures, processes, and services to support full and proper jurisdictional implementation;
- Support bilateral meetings with federal and/or provincial governments;
- Research and development of First Nations child and family safety and well-being interventions; and,
- Expand the range of jurisdictional models to recognize the exercise of First Nations jurisdiction that meets or exceeds provincial/territorial standards.

Family Violence Prevention Program

a. Core shelter operations:

Core operating funding to an existing network of family violence shelters serving First Nation communities. The formula calculates a core operating budget for each shelter based on the province of operation, size and geographical location using four expenditure factors: staff salaries and benefits; operational and administrative costs, and where applicable, funds to cover the costs associated with remoteness and emergency needs.

b. Prevention and awareness:

Family violence prevention activities targeting Aboriginal communities and organizations such as public outreach and awareness, conferences, seminars, workshops, support groups, and community needs assessments.

c. Reimbursement of provincial/territorial bills:

In some provinces and Yukon, where service delivery arrangements currently exist, reimbursement of the actual costs of maintaining an individual or family ordinarily resident on-reserve in a provincial/territorial family violence shelter at provincial/territorial per diem rates and rules. Contribution amounts to provinces and Yukon Territory are based on the actual costs of maintaining an individual or family ordinarily resident on-reserve in some provincial and Yukon family violence shelters based on provincial/territorial per diem rates and rules.

d. National Aboriginal Circle Against Family Violence (NACAFV):

Core funding for NACAFV to provide support to shelters and their staff through training forums, gatherings and development/distribution of resources and research.

Retroactivity

Under these terms and conditions, excluding the FVPP, and for the period of January 26, 2016 to March 31, 2018, the FNCFS program will reimburse actual costs incurred for eligible activities, as identified by the Tribunal.

6. Type and Nature of Eligible Expenditures

Note: These expenses should support the activities stated in section 5.

FNCFS Agencies:

Care and Maintenance

The costs must relate to children ordinarily resident on reserve, registered under the *Indian Act* or who are entitled to be registered.

- Allowances for assessment;
- Crisis Line;
- Placement development: recruiting, assessing, training, supporting, monitoring and evaluating care providers;
- Direct client costs;
- Costs for children in alternative care;
- Purchases on behalf of children in care;
- Special needs assessment and testing;
- Non-medical services to children with behavioural problems;
- Non-medical, limited-duration services;
- Other provincially-approved purchases and professional services where funding from other sources was not received in whole or in part for that activity;
- Establishment and maintenance of Registered Education Saving Programs when necessary to comply with provincial legislation/policy;
- Formal customary care and adoption;
- Post-adoption subsidies and supports;
- Family support costs;
- Reunification services;
- Land-based/cultural activities and equipment;
- Recreational and other activities to meet needs of children living at home; and
- Post-majority care services.

Planning and Operations

- Community consultations;
- Design of service and delivery models;
- Financial policy research;
- Development of service standards;
- Determination of staffing requirements and plans;
- Negotiation of agreements;
- Security services;
- Workplace safety;
- After-hour emergency services;
- Coordination of services at the community level.

Administrative Needs

- Costs for training forums, workshops, outreach, awareness;
- Professional and paraprofessional services;
- Interpretation services;
- Development of client and management information systems;

- Staff recruitment and professional development costs;
- Staff salaries and benefits;
- Honoraria for Elders or Knowledge Keepers;
- Staff travel and transportation;
- Employee Assistance Programs;
- Administrative overhead;
- Audits, monitoring, program research, policy development, evaluation;
- Board/committee operations;
- Professional development;
- Orientation and training of local committees, boards of directors and agency staff;
- Provisions to ensure privacy, security and proper management of records;
- Insurance.

Legal Services

- Corporate legal services;
- Legal services related to the provision of child and family services (including inquests);
- Legal services for child representation.

Infrastructure Purchase, Maintenance and Renovations

- Purchase or construction of capital assets (e.g. buildings) that support the delivery of FNCFS services.
- Purchase and maintenance of vehicles suitable for the transportation of children and families support the delivery of FNCFS services.
- Purchase and maintenance of information technology equipment and systems that are tailored to child and family services delivery;
- Establishment and maintenance of an agency office;
- Purchasing and maintenance of equipment and furniture;
- Operations, minor maintenance (e.g. general repairs, painting, plumbing, minor electrical)
- Janitorial and ground maintenance services;
- Renovations/repairs to the building structure, structural foundations, etc.;
- Repair/replacement of roofing, siding etc.;
- Repairs replacement of Heating system, Cooling system, Ventilation system, Electrical system, Water system, Plumbing system, Back-up generators, etc.;
- Repairs/replacement to/of the floors;
- Repairs/repainting to/of the walls, ceiling, etc.;
- Repairs/replacement to/of windows, doors, etc.;
- Repairs/renovations to the toilets, bathrooms;
- Repairs/renovations to the kitchen (including replacement of cupboards, counters, etc.);
- Repairs/renovations to storage space;
- Repairs/renovations related to improved indoor environmental quality including:
 - Air quality (e.g. vent replacement),
 - Thermal comfort (e.g. replacement of thermostats),
 - Acoustics (e.g. wall insulation),

- Day lighting (e.g. additional windows, replacing/installing additional light fixtures to simulate external light for centers in the north, etc.)
- Pollutant source control (e.g. water purification systems);
- Use of low-emission materials and building system controls, etc.; and,
- Fixtures and Equipment required by Fire Regulations including Fire alarms, Fire doors, Exit signs, Fire extinguishers, First aid kits, Earthquake kits, etc.
- Repairs/renovations to the parking lot;
- Repairs/renovations to external alleys, paths, etc.;
- Repairs/renovations to external structures;
- Permanent Signage;
- Outdoor play structures/space; and,
- Porch, deck, fences, etc.

Note: In regards to the purchase and sale of buildings FNCFS terms and conditions are consistent with those of the First Nations Infrastructure Fund. These are:

Where asset is sold, leased, encumbered or disposed of within:	Return of contribution (in current dollars):
2 Years after Project completion	100%
Between 2 and 5 Years after Project completion	55%
Between 5 and 10 Years after Project completion	10%

Band Representatives in Ontario

- Salary and benefits;
- Honorarium/ Per diem;
- Travel (Accommodations and meals);
- Long distance telephone calls;
- Client transportation (non-medical);
- Family support services; and,
- Court fees and disbursements and court-ordered costs related to child protection cases.

Community Well-being and Jurisdiction Initiatives:

Planning and Operations

- After-hour emergency services;
- Workplace safety;
- Provisions to ensure privacy, security and proper management of records;
- Coordination of services at the community level;
- Crisis Line;
- Direct client costs;
- Other provincially-approved purchases and professional services where funding from other sources was not received to cover the entire cost of the related activity;
- Family support costs;
- Special needs assessment and testing;
- Non-medical services to children with behavioural problems;

- Non-medical, limited-duration services;
- Interpretation services;
- Land-based/cultural activities;
- Recreational and other activities to meet needs of children living at home;
- Post-majority care services; and,
- Parenting courses and anger management courses.

Administrative Needs

- Staff recruitment and professional development costs;
- Staff salaries and benefits;
- Employee Assistance Programs;
- Staff travel and transportation;
- Professional development;
- Board/committee operations;
- Administrative overhead;
- Audits, monitoring, program research, policy development, evaluation;
- Insurance;
- Costs for training forums, workshops, outreach, awareness;
- Policy positions;
- Professional and paraprofessional services.

Legal Services

- Corporate legal services;
- Legal services related to the provision of child and family services.

Infrastructure Purchase, Maintenance and Renovations

- Capital costs for:
 - Purchase or construction of capital assets (e.g. buildings) that support the delivery of FNCFS services;
 - Purchase and maintenance of vehicles suitable for the transportation of children and families support the delivery of FNCFS services;
 - Purchase and maintenance of information technology equipment and systems that are tailored to child and family services delivery.
- Operations, minor maintenance (e.g. general repairs, painting, plumbing, minor electrical);
- Janitorial and ground maintenance services.

Where asset is sold, leased, encumbered or disposed of within:	Return of contribution (in current dollars):
2 Years after Project completion	100%
Between 2 and 5 Years after Project completion	55%
Between 5 and 10 Years after Project completion	10%

Family Violence Prevention Program:

Eligible Expenditures	Core Shelter Operations	Prevention and awareness
Staff salaries and benefits	Yes	Yes
Professional development (including membership and conference fees)	Yes	Yes
Board/committee operations	Yes	Yes
Direct client costs	Yes	No
Operations, minor maintenance, upgrading and repairs of facilities	Yes	No
Overhead administration costs	Yes	Yes
Crisis Line	Yes	No
Staff travel and/or transportation	Yes	Yes
Off-hour emergency services	Yes	No
Costs for training forums, workshops, outreach, awareness (including instructional and information materials)	Yes	Yes
Recruitment costs	Yes	Yes
Professional/ Paraprofessional services	Yes	Yes
Legal services fees and costs	Yes	Yes
Insurance	Yes	No
Audits, monitoring, evaluation and policy development	Yes	Yes

In addition to the above eligible expenditures for FVPP, Provincial/Territorial Bills which include the actual costs of maintaining individuals or families ordinarily resident on reserve in some provincial or Yukon shelters, where service delivery arrangements currently exist according to provincial/territorial per diem rates and rules will be reimbursed.

7. Stacking Limits

The stacking limit is the maximum level of funding to a recipient from all sources (including federal, provincial/territorial, and/or municipal) for any one activity, initiative or project. The limit is 100 percent of eligible costs⁴.

⁴ The Children's Special Allowance is not used to fund child welfare services generally, and is not to be considered as a source of revenue by the program for stacking purposes

8. Method for Determining the Amount of Funding

FNCFS Agencies

Funding for prevention, protection, maintenance, legal services, child service purchase amounts, intake and investigations, building repairs, as well as for agency operations costs for small FNCFS agencies, is based on the actual needs of the children and families served by FNCFS agencies, as reflected by expenditures in these categories.

Community Well-being and Jurisdiction Initiatives

Funding for CWJI projects is determined at the regional level based on the specific needs, circumstances and goals of the community, as well as on the nature and duration of the activities described in the project proposal.

Family Violence Prevention Program

Based on established funding formula for shelter operations and provincial/territorial bills and proposals for prevention and awareness as outlined in the National Social Programs Manual. Contribution amounts are based on a national shelter funding formula. The formula calculates a core operating budget for each shelter based on the province of operation, size and geographical location using four expenditure factors: staff salaries and benefits; operational and administrative costs, and where applicable, funds to cover the costs associated with remoteness and emergency needs. Effective April 1, 2012 contribution amounts are based on strategic funding approaches to support project proposals subject to funding availability.

9. Maximum Amount Payable

The program's funding methodology is being reformed as per orders from the Canadian Human Rights Tribunal (CHRT). While the department has a temporary exception to item 8 of Appendix E of the Directive on Transfer Payments, from an operational perspective the maximum amount payable is currently considered to be the maximum amount of a given claim of actual eligible expenditures that meets the reasonableness requirements included in section 10 (Basis for Payment). Once the revised funding methodology has been established, or in three years (whichever is earlier), the Department will return to the Treasury Board with a maximum amount payable that adheres to the Policy on Transfer Payments.

FVPP Maximum Amounts Payable Per Recipient (000s):

Eligible Recipients	Core shelter operations	Prevention and awareness
Chiefs and Councils of First Nation bands	\$1,000	\$1,500
Tribal councils	\$1,000	\$1,500
FNCFS Agencies and Societies	\$1,000	\$1,500
First Nations authority, board, committee or other entity approved by Chiefs and Councils	\$1,000	\$1,500
Provinces/Territory	Negotiated Amount	N/A
Incorporated shelters	\$1,000	\$1,500
Aboriginal communities and organizations	N/A	\$1,500

10. Basis for Payment

Payments will be made in accordance with the type of funding arrangement, and will be guided by departmental policies as reflected in the contribution agreement. Where it is advantageous to the success of the activities, the Department shall offer fixed or flexible funding approaches for contributions to Indigenous recipients, in accordance with Appendix K of the *Directive on Transfer Payments*. Basic payment principles applicable to FNCFS and FVPP specify that:

- funds be used for eligible activities and cost categories as specified in the contribution agreement;
- costs charged to the program not exceed any maximums specified in the agreement;
- funds be used within the period and to address the needs for which they were provided; and,
- financial reporting requirements specified in the contribution agreement be met.

Notwithstanding the above, for FNCFS, costs for maintenance will continue to be reimbursed based on actual costs incurred. In addition, the Department will reimburse actual costs for the following expenses when agencies have not already received funding through another federal program (including another program of Indigenous Services Canada), or any provincial, territorial, or municipal government funding source for that activity:

- prevention;
- intake and investigations services;
- legal fees;
- building repairs;
- full eligible agency operations costs for small agencies; and,
- child service purchase costs.

The six areas above are those the Tribunal has ordered the program to pay on actuals. A detailed National Recipient Guide detailing how recipients may claim retroactive costs in these areas has been shared with recipients to support them in accessing funds as ordered by the Tribunal.

In this respect, the reasonableness of a particular cost will be established by determining whether the expense was:

- necessary to ensure substantive equality and the provision of culturally-appropriate services, given the distinct needs and circumstances of the individual child and his or her family, including their cultural, historical and geographical needs and circumstances, for instance, by taking into account any needs that stem from historical disadvantage and the lack of on-reserve and/or surrounding services;
- deemed by the recipient to be necessary for the best interest of the child;
- generally recognized as normal and necessary for the conduct of the activity; and,
- aligned with restraints and requirements of generally accepted accounting principles, arm's length bargaining, federal/provincial/local laws and regulations, and/or Certified Accountant terms.

Advance payments will be permitted, based on a forecast of cash flow provided by the recipient and supported by the Community Plan. Progress payments will be subject to periodic reports of activities and expenditures, as specified within the funding agreement, which will be reviewed and validated by the Department. Officials will ensure that all applicable requirements are met prior to processing a payment.

Holdback requirements, if applicable, will be determined based on risk assessment, and may be up to 20% of the total contribution.

Final payment will be contingent on the receipt by the Department of the final activity, performance and financial reports, as specified in the agreement.

Funding under the FNCFS and FVPP programs is targeted and cannot be used for any other purposes.

11. Application Requirements and Assessment Criteria

Before entering into a funding arrangement, (for either FNCFS or FVPP) ISC shall confirm its authorities to enter into an agreement with the recipient and to fund the proposed activities. The departmental review procedures for verifying eligibility, entitlement and application approval (including risk assessments) are detailed in relevant departmental program directives and procedures. As these terms and conditions are new as they relate to the FNCFS program (which includes the CWJI funding stream) specific requirements for this program include, but may not be limited to:

FNCFS Agencies or Societies, Other delegated/designated providers of child and family service providers, including provincially delegated/designated agencies and societies, Provinces and Yukon territory:

- Legal Entity's Name, Address and Telephone;
- Provincial delegation document/certification (Those wishing to only provide prevention services, are not required to have a delegation agreement in place);
- For Corporations: Incorporating Documents (Articles of Incorporation or Letters Patents), By-laws,
- Band Council Resolution for each community being represented/serviced;

- Disclosure of any involvement of former public servants who are subject to the *Conflict of Interest and Post-Employment Code for Public Office Holders* or the *Conflict of Interest and Post-Employment Code for the Public Service*; and,
- Multi-year Plan identifying community's needs, planned activities, performance measures and reporting requirements; along with evidence of consultation and collaboration with communities.
- **Communities (CWJI):** A mandate, as evidenced by a Band Council Resolution (BCR), or other formal mandate for initial agreements, upon renewal of agreements or for the addition of any new initiatives, as required by the program;
- A Multi-Year Community Plan that identifies the community's needs, defines its capacity to respond, and outlines its programs and services, performance measures and reporting requirements to address priorities; and,
- Evidence of demonstrated capacity in areas such as financial and administrative experience to deliver the programs and services.

12. Performance Measurement and Reporting

Performance Measurement

To ensure that a balanced approach is implemented and that the reporting burden is minimized, a reliable performance data collection, analysis and reporting methodology is being developed that will meet the respective needs of the recipients, the communities, the provinces/territories, and the Department. The methodology will be developed collaboratively with the parties to the Canadian Human Rights Tribunal complaint, the National Advisory Committee, and other partners as appropriate, including the provinces/Yukon. Funding recipients will be required to provide to the Department only the performance data required for mandatory reporting on program performance and achievement of program outcomes.

Until the methodology is finalized and implemented, data will continue to be collected by recipients using various methods and sources, and will meet requirements set out in the Reporting Guide⁵. Frequency of financial and performance reporting will be specified in the contribution agreement, but all recipients will be required to report at least annually on their Community Plan for Child and Family Services or CWJI project plan. Financial reviews will be conducted to ensure each recipient submits financial reports in accordance with its funding agreement specifications. An annual audited financial statement will be required in all cases.

Financial Reporting

Financial reporting requirements will be determined based on the recipient's circumstances and the type of funding agreement. Appropriate financial reporting obligations, including frequency, will be contained within each funding agreement.

⁵ This document may be found at: <http://www.aadnc-aandc.gc.ca/eng/1385559716700/1385559777677>

As per the Department's Management Control Framework, annual reviews will be undertaken to ascertain whether funds provided are being expended for the purposes intended, and whether a recipient's financial situation is sufficiently stable to enable continued delivery of funded activities. Where any instability is due to the Department's funding structures or levels of funding, the Department will take measures to mitigate and remediate these risks.

13. Official Languages

Where a program supports activities that may be delivered to members of either official language community, i.e., where there is significant demand, the recipient is required to provide access to services in both official languages. In addition, the Department will ensure that the design and the delivery of programs respect the obligations of the Government of Canada as set out in the *Official Languages Act*.

14. Redistribution of Contributions

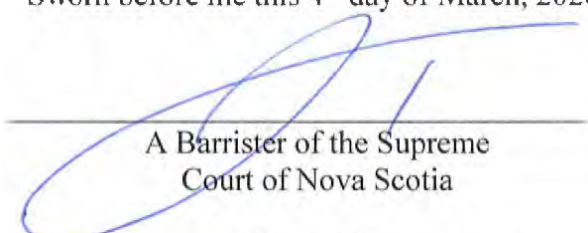
Recipients may redistribute contributions, as per the terms of their funding agreements. Redistributions should be done in line with program objectives, eligibility criteria and eligible expenses. In doing so, however, recipients will not act as agents of the federal government. Where a recipient further distributes contribution funding to another service delivery organization (i.e., an authority, board, committee, or other entity authorized to act on behalf of the recipient), the recipient will remain liable to the Department for the performance of its obligations under the funding agreement. Neither the objectives of the programs and services nor the expectations of transparent, fair and substantively equivalent services will be compromised by any redistribution of contribution funding.

15. Other Terms and Conditions

Land-less Bands and Non-Reserve Communities

Subject to an annual review, the Department will maintain a list of land-less bands and non-reserve communities that are eligible to receive program funding, as contained in the FNCFS Program Guidelines.

This is **Exhibit "6C"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia

**Canada's Response to outstanding comments/concerns received from the
Consultation Committee on Child Welfare regarding the FNCFS Terms and Conditions**

As part of Indigenous Services Canada's commitment to honor the Consultation Protocol, the First Nations Child and Family Services (FNCFS) Program has provided the parties with opportunities to comment on and provide input on the program's *draft* terms and conditions. This process has been ongoing since May 2018.

The Department incorporated as many changes as possible; however, some Government of Canada policies for the management of grants and contributions have resulted in the Program's inability to accommodate all requests.

For the purpose of creating a coherent summary, outstanding concerns related to the FNCFS Terms and Conditions have been amalgamated by theme and presented below. In cases where there have been developments in our initial responses, an Updates/Notes section is provided.

	From	Comment/Question	Response	Updates/Notes
		Jurisdiction		
1.	CS COO	Why is First Nations jurisdiction excluded?	<p>Currently the FNCFS program funds provincially delegated child and family services agencies to manage and deliver child welfare services on reserve. This allows FNCFS Program to support the delivery of child welfare services in First Nation communities while respecting provincial authorities.</p> <p>Through the Community Well-Being and Jurisdiction Initiatives (CWJI) funding stream, the Department will fund the development of governance models that support communities to exercise jurisdiction over child welfare. In this regard, the funding could support the development and implementation of First Nation-based jurisdiction that includes child and family safety and well-being, as well as structures, processes, and services to support full jurisdictional implementation.</p>	<p>Much work has been done to advance First Nation jurisdiction as part of the six points of action including the recent announcement on November 30, 2018 regarding the Government's commitment to introduce legislation on Indigenous child and family services in early 2019.</p> <p>Funding for Community Well-Being and Jurisdiction Initiatives will further the work undertaken related to First nations jurisdiction over child and family services.</p>

**Canada's Response to outstanding comments/concerns received from the
Consultation Committee on Child Welfare regarding the FNCFS Terms and Conditions**

	From	Comment/Question	Response	Updates/Notes
2.	CS	Canada funds the Yukon regardless of residency, so why does it not apply the same concept to FNCFS agencies, so they can deliver services to members on- and off-reserve where practicable?	Since Yukon does not have reserves, the FNCFS Program has a unique funding relationship with the Territory compared to how delegated agencies are funded in other provinces. The Government of Yukon is responsible for determining how the FNCFS funding is allocated.	<p>There are no First Nations child and family service agencies operating in the Yukon Territory meaning ISC funds the Territorial government the provision of First Nations child welfare services pursuant to the <i>Yukon Territory Child and Family Services Act</i>.</p> <p>Canada's funding relationship with the Yukon government has remained unchanged.</p>
3.	CS	Why is DISC not widening the definition to include First Nations jurisdiction as an eligible jurisdictional model, as recommended in the NPR and Wen:De Recommendations, and as contemplated by the Tribunal (2018 CHRT 4 at paras. 236(1) and 413(1)?	These Ts & Cs are interim and are intended to allow the program to support the implementation of Budget 2018 and the CHRT's orders. As the work with Institute Fiscal Studies and Democracy (IFSD) unfolds, the Department may need seek approval for broader changes to program authorities to allow implementation of a new funding/delivery model. The Ts & Cs may be changed at that time to reflect the new model.	<p>The Terms and Conditions have also been updated. Agencies that are formally engaged in the process of obtaining delegated authorities can seek funding and be reimbursed for their prevention activities on actuals.</p> <p>Prevention services may be delivered by non-delegated service providers. Communities who undertake prevention-related activities and projects through the CWJI stream of funding can do so without being delegated as well.</p> <p>Additional opportunities to negotiate First Nation jurisdiction may be available in the Treaties and Aboriginal Government (TAG) Branch, within Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), responsible for negotiations of comprehensive land claims and self-government agreements.</p>

**Canada's Response to outstanding comments/concerns received from the
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4.	COO	Would like to see an acknowledgement of FNs assuming jurisdiction in this paragraph, and also ensuring that the terms and conditions of the program may also be in line with Indigenous laws, customs and traditions in implementing child protection services.	Through the Community Well-being and Jurisdictional Initiatives (CWJI) stream, the Ts & Cs will allow the Department to support First Nations that are seeking to assume jurisdiction.	Please refer to Question 1 for additional information.
Funding				
5.	CS	This is an improvement in terms of length of the funding block, but why not provide for longer-term agreements." (<i>Refers to provision for agreements of up to five years.</i>)	The term for funding is not being changed at this time. As the work with IFSD unfolds, the Department may need to seek further approval for broader changes to program authorities to allow implementation of a new funding/delivery model. The Terms and Conditions may be changed at that time to reflect the new model.	The Department will work with agencies for the vehicle that best suits their needs. As the intent is to move towards multi-year business plans the Department will integrate and make available multi-year flexible funding for agencies.
6.	AFN	To include poverty reduction and housing initiatives within the funding streams under "Type and Nature of Eligible Expenditures"	The FNCFS Program funds are used in a manner consistent with the purpose and objective of the Program. Flexibility in the use of FNCFS funding has been increased, to enable a more thorough response to needs directly related to eligible child and family services.	<p>On prevention, the Department reimburses on actuals and this approach can be used to address a range of needs; however, it does not include housing since there is a housing program within the department.</p> <p>The Department is considering new approaches to capital for agencies and prevention funding.</p> <p>The Program is focused on child and family services, which indirectly influences poverty reduction. It is the Department's intent that the Program's mandate to strengthen communities will work in conjunction with</p>

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	From	Comment/Question	Response	Updates/Notes
				<p>other programs to improve the social-economic standard of life for Indigenous people.</p> <p>Poverty has many determinates and it is through funding prevention programming that FNCFS aims to reduce the risks which contribute to these determinates.</p>
7.	CS/ COO	<p>The Caring Society understood that proposal-based funding for CWJI was rejected at the CCCW given that proposal-based funding is often-times limited (reducing impact) and communities with the highest need and least capacity are often disadvantaged by a proposal-based system.</p> <p>Echo comment about proposal based funding disadvantaging those Nations with the least capacity. For Nation-based prevention services, it seems that there should be allocations for each Nation who wants to deliver services (or each aggregate of Nations, or organization delegated by a Nation to deliver services).</p>	<p>The Community Well-Being and Jurisdiction Initiatives will not be allocated according to a national call for proposals. One of the purposes of the CWJI is to provide funding for community well-being initiatives that are designed by First Nation communities in accordance with their cultural standards and practices. Decisions about allocation will be community/Nation led, with input from partners as appropriate. Regional officials will be available to provide support to communities in developing their proposals or project plans.</p> <p>Same response for both CS and COO</p>	<p><i>As referenced in the Community Well-being and Jurisdiction Initiatives Guidance document:</i></p> <p><i>"Funding for CWJI projects is determined at the regional level based on the specific needs, circumstances and goals of the community, as well as on the nature and duration of the activities described in the project proposal."</i></p> <p>On November 9th, Joanne Wilkinson sent the following in reference to CWJI:</p> <p><i>I want to reiterate that the CWJI is meant to be a regionally led process so the guidelines and implementation of the CWJI in Ontario should continue to be discussed at the Ontario Technical Table. The CWJI themes can be expanded to include ones that are determined in consultation with regional tripartite tables and/or communities. The guidelines in the attached document are meant to be general in nature and adaptable for any specific regional context.</i></p> <p><i>In addition, further to our conversation on October 23 at the CCCW, I wanted to confirm that the use of the word "proposal" by regions is not meant to imply that they are running a formal Call for Proposal process for CWJI funds. For the CWJI, the Department is using project proposals and project plans interchangeably and the guide has been updated to reflect that. Project plans or proposals are not meant to be onerous, but do need to demonstrate that there is a plan for how funds will be used. Plans need to have the following components:</i></p>

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	From	Comment/Question	Response	Updates/Notes
				<ul style="list-style-type: none"> - Goals or objectives - Timelines - Activities - Costs - Outputs or results.
8.	CS	<p>This should not be applicable at the moment. Given the depth of inequality, there should be no ceiling until such time as there is a good record of costs being funded on the basis of need and taking into full account unexpected events. Perhaps there could be a national pool to account for inflation and the increase in the number of children in care or in the needs of children in care." (Reference to content yet to be developed for maximum amount payable.)</p>	<p>Department to work toward establishing appropriate terms in order to respect the Policy on Transfer Payment and implementation of the orders.</p>	<p>As of latest draft of the Terms and Conditions now reads: "The program's funding methodology is being reformed as per orders from the Canadian Human Rights Tribunal (CHRT). While the department has a temporary exception to item 8 of Appendix E of the Directive on Transfer Payments, from an operational perspective the maximum amount payable is currently considered to be the maximum amount of a given claim of actual eligible expenditures that meets the reasonableness requirements included in section 10 (Basis for Payment). Once the revised funding methodology has been established, or in three years (whichever is earlier), the Department will return to the Treasury Board with a maximum amount payable that adheres to the Policy on Transfer Payments."</p>
9.	CS/ COO	<p>Why is this restricted to contribution agreements only?</p> <p>Agreed - would like to see a potential contribution agreement for these funds and would like to see amount of reporting reduced, not increased, for First Nation</p>	<p>For now, the funding mechanism will continue to be a contribution agreement. As the work with IFSD unfolds, the Department may need to seek approval for broader changes to program authorities to allow implementation of a new funding/delivery model. The Terms & Conditions may be changed at that time to reflect the new model.</p>	<p>Since receiving this comment, the Department has consulted the parties on the Funding Agreement Template and has addressed many of these concerns in discussions held separately.</p>

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	From	Comment/Question	Response	Updates/Notes
		recipients. COO would like to discuss the standard form contribution agreements for these funds, as COO objects to the standard form FN contribution agreement template being ported over to funds intended for services for children.	Same response for both CS and COO	
10.	CS	Band representatives "Other costs identified"	This item was removed as currently, the program is funding Band Representatives based on actual costs as determined by the Recipient to be in the best interest of the child as determined by the Band Representative.	
11.	CS	Eligible expenditure for CWJI: Other prevention-related activities (e.g. parenting courses, anger management, etc.).	This was removed as the information does not correspond to Canada's terms and conditions template. The list of eligible expenditures for CWJI in the terms and conditions is not meant to be exhaustive. The CWJI directive currently under development will be modified to include other eligible expenditures not included in the terms and conditions. Also, as implementation proceeds, the program will update program guidance with feedback received from communities (e.g. new eligible expenditures and activities).	
Authorities				
12.	COO	It is unclear to why landless bands or non-reserve communities are treated differently than First Nations with reserves for the purposes of	Pursuant to provincial/territorial delegation models, FNCFS agencies in some regions provide services on and off-reserve. In addition, the Department understands that FNCFS agencies may work with off-reserve child welfare organizations in the interest	References for CWJI : 1) CWJI Guidance document, eligible recipients include: Eligible recipients for this funding include:

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	From	Comment/Question	Response	Updates/Notes
		receiving funding.	of children who have been placed in care off reserve, including when children are being reunited with their families who live on-reserve. We will continue discussions on the issue of service provision on and off-reserve as part of reform.	<ul style="list-style-type: none"> • <i>Chiefs and Councils of First Nations bands recognized by the Minister of Indian Affairs and Northern Development;</i> • <i>Tribal Councils;</i> • <i>First Nations communities;</i> • <i>First Nations authority, board, committee or other entity approved by Chief and Council; and</i> • <i>First Nations, First Nation organizations, or organizations supported by First Nations applying to deliver capacity building activities under CWJI.</i> <p>There is the potential then for landless bands or non-reserve communities to receive CWJI funding providing that they are supported by another First Nation that can deliver services under CWJI.</p>
13.	CS	Can you point me to where Canada addresses the CHRT order regarding: reallocations in the T's and C's?	The Terms and Conditions relate to Canada's funding of FNCFS agencies and other delegated recipients, not the internal departmental financial management systems. Canada is implementing the CHRT order related to reallocation as laid out in the affidavits of May 24, 2018 and the June 21, 2018.	Since the previous response, the Program has developed a draft <i>Reallocation Policy</i> and has consulted with the parties. Many of the concerns were addressed in discussions held separately.
Outcomes				
14.	CS	Consistent with our previous feedback, concerns remain about Canada's expectations of reductions of children in need/care over the short term (5 years) without providing any evidence to support such reductions are systematically possible. This was problematic in EPFA, where Canada thought that numbers of children in care would reduce and then funds for	<p>The requirement to have clear timelines and outcomes are a government-wide requirement, which helps the program to achieve its main purpose (i.e. the safety and well-being of FN children and family).</p> <p>As previously stated, the current reform of First Nations Children and Families Services (FNCFS) Program, which includes the expansion of support for prevention and early intervention services, necessitates an update to the Program's outcomes and indicators that will support the FNCFS agencies</p>	The Department is committed to continuing to engage with the CCCW and the NAC to discuss indicators and outcomes.

**Canada's Response to outstanding comments/concerns received from the
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	From	Comment/Question	Response	Updates/Notes
		<p>maintenance could be reallocated for prevention – this did not happen. Also in some areas, caseloads increasing may be an indication of something positive- for example families may now come forward to access services (including placing their kids in care while they get treatment) now that agencies can offer a greater array of prevention/family supports.</p>	<p>and communities in developing their own protection and prevention programs and demonstrate the effectiveness of the National FNCFS Program. Further, to minimize FNCFS agencies' reporting burden, new indicators that are common to most child welfare agencies have been added to the existing ones.</p> <p>The overrepresentation of First Nations children in the child welfare system is a well-established fact and data is available on this issue both from the Census but also from other recognized sources. Moreover this outcome is predicated on indicators such as the number of children in care for which the Department needs to publicly report (i.e. Departmental Results Framework, Infobase). For this reason, the goal of reducing the overrepresentation of First Nations children in care needs to stay within the Terms and Conditions of the Program.</p>	
15.	CS	<p>I highly recommend you drop the measures related to children and families where there is no evidence to support them and also drop any measures where there is no baseline measure and satisfy your reporting requirements by limiting outcomes to things like: 1) number of staff paid at levels comparable to provincial/territorial salaries; 2) number of building safety issues addressed.</p>	<p>As previously stated, the current reform of First Nations Children and Families Services (FNCFS) Program, which includes the expansion of support for prevention and early intervention services, necessitates an update to the Program's outcomes and indicators that will support the FNCFS agencies and communities in developing their own protection and prevention programs and demonstrate the effectiveness of the National FNCFS Program. Further, to minimize FNCFS agencies' reporting burden, new indicators that are common to most child welfare agencies have been added to the existing ones.</p>	

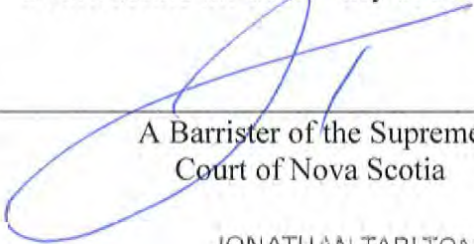
**Canada's Response to outstanding comments/concerns received from the
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	From	Comment/Question	Response	Updates/Notes
16.	CS	<p>Can you either let us know if you are changing the reporting outcomes to account for a lack of baseline/confounding variables and if so can you please send us another draft. Also, where INAC has evidence to support the outcomes for agencies please send us the peer reviewed studies so we can review them. Needless to say, these amendments also would need to be applied to the TOR and the agreements.</p> <p>We won't know this without a baseline study.</p>	<p>A methodology for a longitudinal study that will be used for this purpose is being established in consultation with partners (led by FNIHB). Recognizing that there has been no national Canadian Adverse Childhood Experiences (ACE) study, we have moved one of the intermediate outcomes to replace the outcome referencing ACE. The new intermediate outcome would be: "The well-being of First Nations children and families is improved". The work being undertaken by FNIHB and the Public Health Agency on child maltreatment could support setting baselines.</p>	<p>The Department is committed to continuing to engage with the CCCW and the NAC to discuss indicators and outcomes.</p>
17.	CS	<p>Again I reiterate my previous statement that as this is a GOC program there should be measures for Canada as well given that the achievement of these outcomes for children and agencies are largely dependent on Canada fully complying with the orders and has not done so to date.</p>	<p>As noted in the Department's previous response of June 19, 2018, Canada's definition of an outcome is: "An external consequence attributed, in part, to an organization, policy, program or initiative". However, it is implicit to both immediate outcomes that the Department acknowledges the historic under-funding of the program. In addition, the program has included the following as a key outcome in internal reporting documents "Canada has fully implemented the CHRT orders from January 2016 to February 2018". It is also the first commitment under the six-point plan to which the Minister committed emerging from the Emergency Meeting of January 2018.</p>	

**Canada's Response to outstanding comments/concerns received from the
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	From	Comment/Question	Response	Updates/Notes
18.	CS	Performance indicators used to track FNCFS outcome achievement will be co-developed with partners.	This sentence was removed as the information does not correspond to Canada's terms and conditions template. We are committed to working with our partners, including the CCCW and NAC, on identifying how best to accurately assess the long-term social impacts and develop the targets associated to these indicators to ensure that the program is able to elicit positive change for children and families.	
19.	CS	The objective of the First Nations Child and Family Services program is to strengthen the safety and well-being of First Nations children and their families ordinarily resident on reserve by funding culturally-appropriate prevention and protection services for child welfare that are in keeping with the best interests of the child.	This sentence was removed as the information does not correspond to Canada's terms and conditions template. However, the program will add this to the website where the terms and conditions will be posted.	

This is **Exhibit "7A"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia

DRAFT- WITHOUT PREJUDICE

***FIRST NATIONS CHILD AND
FAMILY SERVICES
PROGRAM DIRECTIVE:***

***AGENCIES FUNDING STREAM:
CAPITAL EXPENDITURES***

***Indigenous Services Canada
January 2020***

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PROGRAM DIRECTIVE: CAPITAL EXPENDITURES – AGENCIES FUNDING STREAM

1. INTRODUCTION

1.1 Past Approaches to Funding Capital Expenditures under the First Nations Child and Family Services Program

Indigenous Services Canada (ISC) does not own First Nations Child and Family Services (FNCFS) agency buildings. As per a survey conducted by the Institute of Fiscal Studies and Democracy in 2018, the large majority of agencies rent their facilities and have relatively modest asset bases. Historically, the only eligible capital expenditures under the Terms and Conditions for ISC's FNCFS Program were minor capital expenses (e.g., maintenance and building repairs/upgrades/renovations to facilities, purchase and maintenance of vehicles and IT equipment, etc.) as well as rent and mortgage payments. Agencies used their existing FNCFS Program formula-based administrative overhead funding or other sources of revenue to address their capital needs. The FNCFS Program's previous Terms and Conditions included a \$1.5 million cap on capital projects. There has been no departmental program authority or funding specifically designated for major capital projects for FNCFS agencies (e.g., expansions, new builds, etc).

1.2 Canadian Human Rights Tribunal Ruling and Subsequent Orders

On January 26, 2016, the Canadian Human Rights Tribunal (the Tribunal) found that the provision of FNCFS by ISC was flawed, inequitable and discriminatory under the *Canadian Human Rights Act*. The Tribunal ordered ISC to cease its discriminatory practices and to reform the FNCFS Program and the 1965 Agreement in Ontario to reflect the findings in their decision and to cease applying its narrow definition of Jordan's Principle. Canada did not appeal the decision.

Subsequent orders on remedies were made in 2016, 2017 and February 2018 related to the implementation of the FNCFS Program and Jordan's Principle. The Tribunal's February 2018 ruling ordered Canada to provide funding to FNCFS agencies based on actual costs for prevention/least disruptive measures, building repairs, intake and investigations, and legal fees until an alternate funding system is in place.

1.3 Revised Approach to Funding Capital Expenditures under the FNCFS Program

Since the Tribunal's February 2018 orders related to building repairs, ISC worked with the Parties to the complaint to update the [FNCFS Program Terms and Conditions](#) (*Document can be accessed via hyperlink*) to provide greater flexibility regarding capital expenses, and the Department also began funding FNCFS agency building repairs based on actuals.

Further to this, on October 30, 2018, the Department confirmed to the Parties to the Tribunal complaint (through the Consultation Committee on Child Welfare) that the \$1.5 million cap for capital projects would be removed from the Program Terms and Conditions and would instead be raised to a \$2.5 million cap to account for inflation and other pressures. ISC also confirmed that, although there was no separate funding stream for capital expenditures under the FNCFS Program, agencies could use the increased Budget 2018 funding (ramp-up and remoteness allocations) or any surpluses they may have for capital expenditures.

2. PURPOSE

The purpose of this document is to provide clarity to FNCFS agencies on what capital expenditures are eligible under the FNCFS Program’s Agencies funding stream, as well as the requirements to meet and processes to follow in order access this funding and to complete major infrastructure projects.

This document does not address capital expenditures under the FNCFS Program’s Community Well-Being and Jurisdiction Initiative stream or building repairs for Band representative services in Ontario as these matters are addressed in the CWJI Program Directive and in the Ontario Recipient Guide respectively.

In assessing the eligibility of a FNCFS agency’s capital expenditures under the FNCFS Program, this program directive should always be read in conjunction with the Program Terms and Conditions.

3. CAPITAL EXPENDITURES FOR FNCFS AGENCIES THAT ARE ELIGIBLE FOR FUNDING CONSIDERATION

The following table lists the capital expenditures for FNCFS agencies that could be considered eligible under the FNCFS Program if all relevant program requirements (Section 4) are met. This list of expenditures was extracted from the FNCFS Program’s Terms and Conditions.

<p>Capital Expenditures Eligible for Funding Consideration under the FNCFS Program’s Agencies Funding Stream</p>	<p><u>Infrastructure purchase, maintenance and renovations</u></p> <ul style="list-style-type: none"> • purchase or construction of capital assets (such as buildings) that support the delivery of FNCFS services • purchase and maintenance of vehicles suitable for the transportation of children and families that support the delivery of FNCFS services • purchase and maintenance of information technology equipment and systems that are tailored to child and family services delivery • establishment and maintenance of an agency office • purchasing and maintenance of equipment and furniture • operations, minor maintenance (such as general repairs, painting, plumbing, minor electrical) • janitorial and ground maintenance services • renovations and repairs to the building structure, structural foundations • repair or replacement of roofing, siding • repairs or replacement of heating system, cooling system, ventilation system, electrical
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	<p>system, water system, plumbing system, back-up generators</p> <ul style="list-style-type: none"> • floor repairs • repairs or repainting: walls, ceiling • repairs or replacement: windows, doors • repairs or renovations to the toilets, bathrooms • repairs or renovations to the kitchen (including replacement of cupboards, counters) • repairs or renovations to storage space • repairs or renovations related to improved indoor environmental quality including: <ul style="list-style-type: none"> ○ air quality (such as vent replacement) ○ thermal comfort (such as replacement of thermostats) ○ acoustics (such as wall insulation) ○ day lighting (such as additional windows, replacing/installing additional light fixtures to simulate external light for centers in the north) ○ pollutant source control (such as water purification systems) ○ use of low-emission materials and building system controls ○ fixtures and equipment required by Fire regulations including fire alarms, fire doors, exit signs, fire extinguishers, first aid kits, earthquake kits • repairs or renovations to the parking lot • repairs or renovations to external alleys, paths • repairs or renovations to external structures • permanent signage • outdoor play structures and space • porch, deck, fences
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3.1 Housing

The FNCFS Program does not have the authority to consider funding any of the above capital expenditures as it relates to private homes unless the associated proposal demonstrates that the proposed investment would:

- address the only issue that is putting a child in immediate risk of being placed into care; or
- support the use of the least disruptive measures to respond to child maltreatment.

If one of these conditions are met, to be considered eligible for funding, the project will also meet all of the other pertinent program requirements listed in Section 4.

4. MINIMUM PROGRAM REQUIREMENTS

For the purpose of outlining the minimum program requirements that will be met in order to be deemed eligible for funding under the FNCFS Program, the capital expenditures have been separated into two categories: Building Repairs and Other Capital Expenditures.

In regards to all eligible capital expenditures under the FNCFS Program, however, all capital projects are subject to a total project cost cap.

Total Cost - Capital Project Cap - \$2.5 million

The total capital costs of a project cannot exceed \$2.5 million per FNCFS agency per fiscal year.¹

Note:

- A FNCFS agency may incur costs for more than one project per fiscal year;
- multiple FNCFS agencies can share the costs of a project and still be eligible for a maximum of \$2.5 million each (i.e., per FNCFS agency) per year; and
- FNCFS agencies may work with other Partners that are not eligible recipients under this Program and still spend the maximum of \$2.5 million per year.

The following scenarios illustrate how this cap is applied.

Scenario 1: One Project-Single FNCFS Agency

FNCFS Agency XYZ wishes to build a healing center that includes meeting space and work areas to deliver programming such as awareness campaigns on child maltreatment and its prevention, parenting and life skills training, family counselling and mediation, and immediate crisis intervention supports. The total cost of the project is \$4 million.

Funding Allocation

The FNCFS agency can spend no more than \$2.5 million in the first year and the remainder (\$1.5 million) in the second year. The project funding will be spread over a two-year period.

Scenario 2: One Project-Two FNCFS Agencies

FNCFS Agency XYZ wishes to build a healing center that includes meeting space and work areas to deliver programming such as awareness campaigns on child maltreatment and its prevention, parenting and life skills training, family counselling and mediation, and immediate crisis intervention supports. The total cost of the project is \$4 million. FNCFS Agency ABC heard about the proposal and wishes to work with FNCFS Agency XYZ and share the new facilities. The two FNCFS agencies decide to split the costs evenly.

Funding Allocation

Each FNCFS agency will spend \$2 million in the first year, for a total of \$4 million. Since each FNCFS agency is entitled to spending up to \$2.5 million per year per project, all of the project funding will be spent in the first year.

¹ Instances whereby remoteness is a factor in determining the cost of a project will be reviewed on a case-by-case basis.

Scenario 3: One Project- One FNCFS Agency and the First Nation

FNCFS Agency XYZ wishes to build a healing center that includes meeting space and work areas to deliver programming such as awareness campaigns on child maltreatment and its prevention, parenting and life skills training, family counselling and mediation, and immediate crisis intervention supports. The total cost of the project is \$4 million. The First Nation decides to fund \$3 million and will use the facilities as well.

Funding Allocation

The FNCFS agency will spend \$1M in the first year.

Scenario 4: More than One Project- One FNCFS Agency

FNCFS Agency XYZ wishes to build a healing center that includes meeting space and work areas to deliver programming such as awareness campaigns on child maltreatment and its prevention, parenting and life skills training, family counselling and mediation, and immediate crisis intervention supports. The total cost of the project is \$4 million. FNCFS Agency XYZ also wishes to undertake building repairs to its agency office, including the electrical and plumbing systems to bring them up to code. This project will cost \$1 million.

Funding Allocation

For the healing center project, the FNCFS agency will spend, no more than \$2.5 million in the first year and the remainder (\$1.5 million) in the second year. The project funding will be spread over a two-year period.

In addition, the FNCFS agency will spend \$1 million in the first year to complete the building repair project to the agency office.

Project	Year 1	Year 2	Total
Healing Center	\$2.5M	\$1.5M	\$4M
Building Repairs to Agency Office	\$1M	-	\$1M
Total	\$3.5M	\$1.5M	\$5M

4.1 Building Repairs

As claims associated with FNCFS agency building repairs are processed through a separate payment based on actuals process, the FNCFS Program’s minimum requirements for confirming the eligibility of building repairs are identified in the National Recipient Guide.

4.2 All Other Capital Expenditures

On a case-by-case basis, ISC will also consider funding capital expenditures associated with the following assets:

- Vehicles
- Information Technology Equipment and Systems
- Other Equipment and Furniture
- Buildings (Purchase, new builds or major renovations)

4.2.1 Common Program Requirements for All Other Capital Expenditures

The following minimum program requirements will be met in order for any of these expenditures to be deemed eligible for funding:

A. Needs Assessment

To ensure that expenditures are meeting both the needs of the community and service delivery requirements of the FNCFS agency, the project proposal should include a needs profile which would take the following into consideration:

- current scope of programs and services;
- staffing contingent delivering programming and services;
- estimated capital requirements of current program and/or service for which funding is currently being sought; and
- extent to which this type of capital is currently available to the FNCFS agency and the current condition/state of these existing assets.

B. Linkage to Program Outcomes

FNCFS agencies are expected to demonstrate in the proposal as to how the proposed capital project:

- links to the FNCFS Program's ultimate outcome of decreasing the over-representation of First Nations children in care;²
- serves the best interests of the child; and
- addresses the only issue that is putting a child in immediate risk of being placed into care or supports the use of the least disruptive measures in order to respond to child maltreatment.

² As per the [Treasury Board of Canada's Policy on Results](#), federal departments will ensure that resources are allocated based on performance to optimize results, and that Parliamentarians and the public receive transparent, clear and useful information on the results that departments have achieved and the resources used to do so.

The FNCFS Program's existing outcomes are listed in the Program's Terms and Conditions. The Program remains committed to continuing to work with Partners to identify appropriate targets, indicators and outcomes and welcomes any future discussions on this subject.

C. Multi-Year Agency Plan

These capital costs should preferably be identified in a FNCFS agency's multi-year plan.³

Where possible, First Nations and FNCFS agencies are strongly encouraged to work together on capital planning to ensure that, when appropriate, projects address the broader needs of the community and not necessarily just the needs related to the delivery of the FNCFS Program (e.g. the construction of buildings or the purchase or repair of equipment that serve a variety of purposes in the community including in supporting the delivery of the FNCFS Program).

D. Other Requirements

The following conditions will also be met in order for these capital expenditures to be considered eligible for funding:

- in circumstances where an asset is being used for other purposes in addition to delivery of FNCFS-related programming, the associated capital expenditures will be pro-rated based on degree of use by the various users and the FNCFS Program will only reimburse the portion related to the provision of child and family services;
- the cost will be generally recognized as standard and necessary for the conduct of the activity;
- the restraints and requirements related to such factors as generally accepted accounting principles; arm's length bargaining; and federal, provincial and local laws and regulations; and
- to ensure substantive equality and the provision of culturally appropriate services, the needs of each individual child and the child's family will be considered and evaluated, in light of the child's distinct needs and circumstances including their cultural, historical and geographical needs and circumstances, for instance by taking into account any needs that stem from historical disadvantages and the lack of services on-reserve and/or surrounding services.

4.2.2 Specific Program Requirements only related to the Purchase, Construction or Major Renovations of Buildings

In alignment with ISC's Capital Facilities and Maintenance Program (CFMP) and First Nation Infrastructure Fund's minimum requirements, any building purchases, new builds, or major renovations of buildings will meet the following requirements:

- the project will be supported by a Band Council Resolution, Tribal Council Resolution or other documentation indicating support from the governing body of a self-governing First Nation;

³ ISC recognizes that not all capital expenditures can be anticipated. Should a need arise due to an unexpected event that could not be reasonably foreseen and therefore was not included in the FNCFS agency's multi-year plan, the FNCFS agency could still submit a funding proposal for ISC's consideration.

- the project will have a well defined and formally approved scope of work, schedule and budget;
- a qualified project manager acceptable to the FNCFS agency (and band or tribal council if a joint project) will be appointed to manage the implementation of the project;
- a feasibility study will be carried out in advance of construction of the project commencing when deemed necessary by the FNCFS agency;
- the project will be designed to meet all the applicable federal, provincial and territorial codes and standards for the design, construction and operation of similar physical assets, and in accordance with departmental level of service standards, as may be amended from time to time;
- where the total estimate cost of the project exceeds \$50,000 or is not within the competence of a technician/technologist, the design of the project will be approved and so certified by a professional engineer or architect licensed to practice as such in the province/territory where the facility is to be constructed; and
- the project will be inspected and certified for compliance with applicable regulatory requirements by qualified inspectors at the various stages.

Additionally, all projects will adhere to the [Protocol for INAC-Funded Infrastructure \(PIFI\)](#) (PIFI) and the [Tendering Policy on Federally Funded Capital Projects for First Nations on Reserve](#)⁴

5. FUNDING FOR FNCFS AGENCIES FOR CAPITAL EXPENDITURES

5.1 Funding Avenues

5.1.1 Building Repairs

As claims associated with FNCFS agency building repairs are processed through a separate payment based on actuals process, details on the funding avenues associated with building repairs are identified in the National Recipient Guide.

5.1.2 All Other Capital Expenditures

All other FNCFS agency capital expenditures beyond building repairs are not eligible for reimbursement through the FNCFS Program's claims based on actuals process. As previously mentioned, although there is not a separate capital funding stream under the FNCFS Program to cover these costs, FNCFS agencies can use their increased Budget

⁴ The PIFI provides an up-to-date listing of applicable statutes and regulations that will be complied with as well as a listing of additional policies, codes, directives, standards, protocols, specifications, guidelines, and procedures which will be adhered to as a condition of funding. The Tendering Policy outlines the tendering requirements that will be fulfilled when delivering a building-related capital project. Departmental employees will provide advice to First Nations regarding compliance with these requirements.

2018 funding (ramp-up & remoteness allocations) or any surpluses that they may have for capital expenditures.

Prior to using FNCFS Program funding for these other capital expenditures, all proposals will be pre-approved by authorized FNCFS Program officials within the Department.

Prior to proposing to use FNCFS Program funding for this purpose, FNCFS agencies should ensure that the capital expenditure is not eligible for reimbursement via any other ISC programs (such as the Capital Facilities and Maintenance Program), other federal departments, or provincial/territorial, or municipal governments.

6. PROJECT APPROVAL PROCESS FOR FNCFS AGENCY CAPITAL EXPENDITURES

6.1 Building Repairs

Please see National Recipient Guide for these details.

6.2 Other Capital Expenditures – Vehicles, IT Equipment and Systems, Other Equipment and Furniture

FNCFS agencies will submit proposals that address the minimum program requirements (Section 4) for these activities to their local ISC Regional Office for consideration on a case-by-case basis.

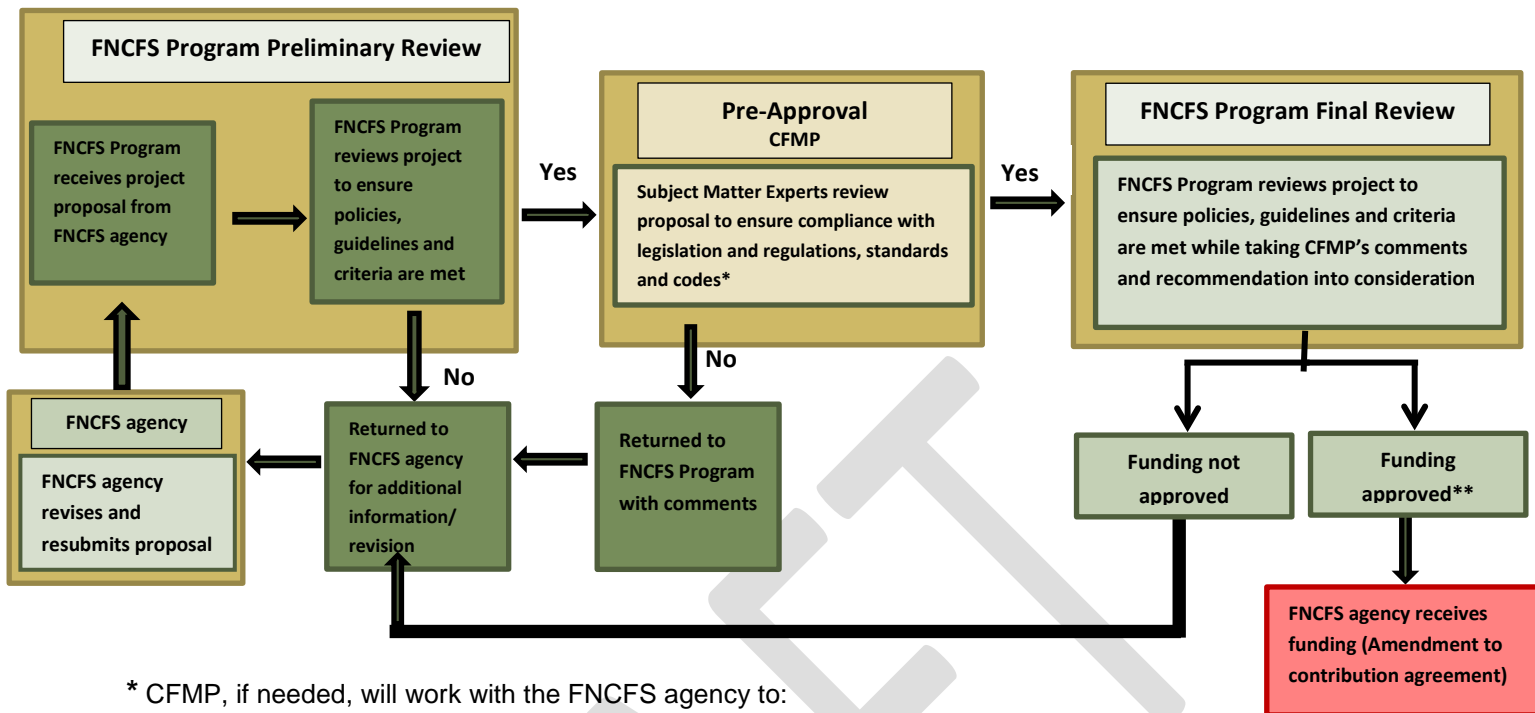
6.3 Other Capital Expenditures - Building-Related Capital Proposals (Excluding Building Repairs)

The Capital Facilities and Maintenance Program (CFMP) within ISC is the main pillar of the Government of Canada's efforts to support community infrastructure for First Nations on reserve. CFMP exists to support the planning, management and building of infrastructure on reserve in a safe manner.

While it will be the responsibility of the FNCFS Program to assess the eligibility of capital proposals for FNCFS Program funding, CFMP will be involved in reviewing building-related capital proposals (purchases, new builds and major renovations) from a technical perspective to support ISC's ongoing effort to:

- maximize the life cycle of physical assets;
- mitigate health and safety risks;
- ensure assets meet applicable codes and standards; and
- ensure assets are managed in a cost-effective and efficient manner.

CFMP will pre-approve these capital proposals before the FNCFS Program flows any funding. These projects will have to be submitted using CFMP's formal project proposal template. Once FNCFS receives pre-approval from CFMP, ensuring that all legislative and regulatory, guidelines and codes have been adhered to, FNCFS will approve funding should the project meet all other criteria as stated in this document.



* CFMP, if needed, will work with the FNCFS agency to:

- provide expertise in the area of engineering, architecture etc.;
- analyze and/or revise scope of project;
- assist in establishing project management arrangements; and
- update financial information (project quote)

** FNCFS Program and CFMP will work closely throughout the project; however, FNCFS Program officials will remain the final decision maker on all aspects of the project.

Note: Departmental employees will provide advice and guidance to FNCFS agencies throughout this process.

7. OPERATIONS AND MAINTENANCE

The preservation of the functional integrity of funded capital assets is a priority. In alignment with [ISC's Operation and Maintenance Directive](#) (Document can be accessed via *hyperlink*), all assets purchased through the FNCFS Program (in the past and moving forward) will be:

- maintained to preserve them in as near to their original or renovated condition as is practical; and
- operated to ensure their proper day-to-day functioning, with due regard to health and safety of the community and the environment.

ISC promotes a life-cycle approach for assets starting with the use of a full life-cycle costing when approving capital projects. This type of analysis allows for the consideration of all the associated costs (e.g. for buildings, life-cycle costs include design, construction, operation and maintenance, insurance, and major renovations) of the proposed asset throughout its entire life cycle. To the extent possible, the costs associated with the ongoing operations and maintenance of building, equipment and furniture should be included in a FNCFS agency's multi-year plan.

7.1 Operations and Maintenance of Buildings

Building is owned by the FNCFS agency:

For the operation and maintenance of FNCFS agency-owned existing buildings, the FNCFS agency is expected to provide for the preservation of public health and safety and the environment, including the protection of the investment in the buildings under its care and control.

Building is not owned by the FNCFS agency:

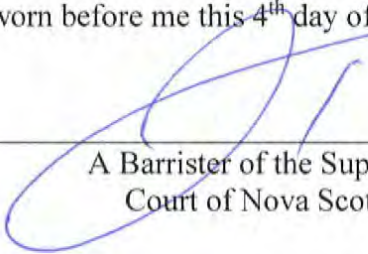
The Department can reimburse building repairs costs for buildings not owned by the FNCFS agency under the following parameters:

- the FNCFS agency will obtain from the owner of the building a letter or other form of document that the owner guarantees that the tenant will remain in the building for a certain period of time following such expenses (The period of time is depending on the value of the cost investment);
- the FNCFS agency will be physically located in that building for their day-to-day operations and provide protection/prevention services;
- the FNCFS agency will utilize the majority of the space; and
- if other services beyond FNCFS are delivered in that building by the owner, the costs should be reasonably shared between the FNCFS agency and the owner proportionate of FNCFS prevention/protection operations versus the other program services other than FNCFS.

8. OTHER INFORMATION

FNCFS agencies can contact departmental representatives for any questions relating to this document.

This is **Exhibit "7B"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARTTON
A Barrister of the Supreme
Court of Nova Scotia

CROSSWALK OF FEEDBACK FROM CONSULTATION COMMITTEE ON CHILD WELFARE AND REVISIONS MADE TO DRAFT CAPITAL DIRECTIVE FOR AGENCIES

Includes comments from:

- AFN’s general summary of committee meeting discussions
- First Nations Child and Family Caring Society’s alternative outcomes language
- Feedback from NAN
- Feedback from Yorkton Tribal Council CFS Agency
- Feedback from MCPEI
- Feedback from Agency Finance Working Group
- ISC’s notes from June 17th CCCW Meeting
- Feedback from First Nations Child and Family Caring Society – Dr. Cindy Blackstock

Section in Original Document	Theme	Source of Comments	Comments	Status (Accepted/Not Accepted/Partially Accepted)	Where Revisions are Located in Revised Document
General comments / Overall document	Processes and eligibility	ISC notes from CCCW Meeting (Comment from NAN)	<ul style="list-style-type: none"> • There has been a lot of mixed messaging regarding the processes for and eligibility of capital projects. This document should offer a clear message on these matters. 	Accepted. The document has been restructured and streamlined in attempt to clarify these matters.	Throughout
	Processes	ISC notes from CCCW Meeting (Comment from Caring Society)	<ul style="list-style-type: none"> • The First Nations Child and Family Caring Society mentioned a standardized process being used for reviewing school capital projects and suggested that ISC may want to consider using a similar approach for child and family services-related projects. Committee members to share best practices and any associated documents with ISC. 	Accepted. Where appropriate, the FNCFS Program has attempted to align this document with the policies and practices of the Capital Facilities and Maintenance Program and the First Nations Infrastructure Fund. Additionally, technical expertise from ISC’s Community Infrastructure Branch and Regional Infrastructure Delivery	Sections 4.2.1 / 4.2.2 / 6.3 / 7

				Branch will be leveraged in the review of proposals.	
	Eligibility	AFN general summary	<ul style="list-style-type: none"> The mention of prevention eligibility within the document but no mention of intake/investigation and guardianship services 	Accepted. The document has been restructured and streamlined in attempt to clarify these matters.	Sections 2 / 3
		ISC notes from CCCW Meeting	<ul style="list-style-type: none"> Capital purchases should not be restricted to prevention. Should be permissible in relation to intake and assessment as well. 	The directive now focuses on eligible capital expenditures for FNCFS Agencies under the FNCFS Agencies stream of the FNCFS Program.	
		MCPEI	<ul style="list-style-type: none"> Section 5.1 refers to capital for prevention yet the programs terms and conditions cover intake and investigation so how can they pick and choose what is eligible for capital and what isn't? It is contradicting their own terms and conditions. 		
	Complexity of processes and requirements	AFN general summary	<ul style="list-style-type: none"> The interface with several other capital policies, tendering procedures, community plans making the process complex 	Accepted. The document has been restructured and streamlined in attempt to clarify these matters. Reference to the First Nations community infrastructure plan has been removed.	Sections 4.2.1 (c) / 4.2.2 / 6.3 / 7
Consultation process for projects	Yorkton Tribal Council CFS	<ul style="list-style-type: none"> The approval process for land based projects includes the CFS Agency, ISC 	Accepted. This was addressed.	Section 4.2.1 (c)	

		Agency	capital program and a department from First Nation's health. If the asset is built on reserve then it should also include the First Nation. My position is that if the asset is built on reserve then the approval should come from the CFS agency in consultation and approval of the First Nation via the 10 year land set aside. It has been quite clear for our Agency that it is not ISC that determines the needs of the First Nation communities it is the First Nation community that identifies its own needs and doesn't have to seek the approval of other government agencies including ISC.		
	Operations and maintenance costing	Yorkton Tribal Council CFS Agency	<ul style="list-style-type: none"> The question of whether infrastructure funding, water, sewer, gas, internet, etc. are excluded is not really expressed in this policy but there has to be discussion to ensure that it is clear and should be included in the cost of the capital structure. 	Not accepted. Infrastructure such as water, sewer, gas and internet infrastructure are excluded from this directive. Please refer to the Program's terms and conditions for eligible projects.	N/A
	Best practices for infrastructure construction projects	Yorkton Tribal Council CFS Agency	<ul style="list-style-type: none"> I agree with having ISC's capital department being involved. There is mention of establishing a PMT (<i>Project management team?</i>) which is still part of our process but then ISC would be at the table as well. Part of this process is setting up a separate bank account 	Noted.	N/A

			<p>where you keep the capital funds and issue progress payments after inspections of the capital being built. This limits our risk but as well we don't have to go to the bank to bridge finance the projects as ISC will deposit the funds to this account.</p>		
	Lack of buildings	NAN	<ul style="list-style-type: none"> NAN has several concerns with the Draft Directive. NAN's starting point for discussions regarding capital in the context of child and family services is the on-the-ground reality in many NAN communities: there is a significant capital infrastructure deficit that poses barriers to program delivery (see, for example, Affidavit of Bobby Narcisse affirmed April 3, 2019, at paras 9-16). For many NAN communities, the issue is not simply one of adequate buildings to support program delivery, but an <i>actual</i> absence of such buildings. 	<p>Noted. The document outlines the minimum requirements in order for the purchase or construction of new buildings to be eligible for FNCFS Program funding.</p>	<p>Sections 4.2 / 4.2.1 / 4.2.2</p>
	Eligibility for reimbursement based on actuals	NAN	<ul style="list-style-type: none"> Limiting projects to building repairs or to actuals of prevention-related infrastructure costs. The Canadian Human Rights Tribunal ("the Tribunal") has ordered Canada to reimburse and fund agencies at actuals for costs relating to child welfare prevention/least disruptive measures, intake and investigation, building repairs, and legal fees (2018 CHRT 4, at paras 410-412). It has also ordered Canada to reimburse and fund, at actuals, BRS for Ontario 	<p>Partially accepted.</p> <p>The document has been restructured and streamlined in attempt to clarify these matters.</p> <p>The directive now focuses on eligible capital expenditures for FNCFS Agencies under the FNCFS Agencies stream of the FNCFS Program. The document speaks very</p>	<p>Sections 2 / 3</p>

			<p>First Nations (2018 CHRT 4, at para 427 (as amended)). Costs at actuals includes infrastructure costs. The Draft Directive appears to be limited in focus to (a) building repairs, and (b) prevention on actuals (e.g. Draft Directive at p. 3 - 3. Minimal Requirements of All FNCFS Capital Projects). The Draft Directive suggests that capital needs for delivering BRS will be limited to building repairs of existing assets: the only mention of BRS is in a footnote that reads, “Reimbursement on actuals also applies to Band Representatives’ needs for building repairs of existing assets” (Draft Directive, p. 5, under the heading “Payment on Actuals – Building Repairs”). The Tribunal has ordered that Canada reimburse BRS services at actuals, and this should be reflected in the Draft Directive. As NAN has consistently raised at the Consultation Committee and throughout the Tribunal proceedings, funding to repair existing assets does not help address an absence of assets, which is the reality faced by many NAN communities.</p>	<p>minimally about FNCFS agency building repairs as this is covered under the National Recipient Guide. This document does not address capital expenditures under the FNCFS Program’s Community Well-Being and Jurisdiction Initiative stream or building repairs for Band representative services in Ontario as these matters are to be addressed in the CWJI Program Directive and in the Ontario Recipient Guide respectively.</p> <p>is point will be clarified in the next iteration of the Recipient Guide for Band Representative Services in Ontario which will be shared with the CCCW for comment in the future.</p>	
<p>1. Introduction</p>	<p>Linkage to Program outcomes</p>	<p>AFN general summary</p>	<ul style="list-style-type: none"> • Eligibility for capital expenditures being linked to the outcomes in the program T&C, given the discussion at NAC and overall concerns with outcomes within program T&C’s (p.2) 	<p>Partially accepted.</p> <p>The section on linking projects to program outcomes has been adjusted to explain why this is</p>	<p>Sections 3.1 / 4 (including footnote in 4.2.1)</p>

		<p>MCPEI</p>	<ul style="list-style-type: none"> • Linking capital to outcomes and performance indicators seems like an extreme request. 	<p>necessary as per the Treasury Board of Canada's Policy on Results but it also emphasizes the Program's commitment to continued dialogue with partners on results measures as they wish.</p> <p>Additionally, the Program has restructured the document in attempt to be clearer about minimum program requirements.</p>	
		<p>Caring Society</p>	<ul style="list-style-type: none"> • Alternative outcomes language from Caring Society for the recipient guides: <p>ISC acknowledges that the recipient reporting outcomes in this document are for information purposes only and are not linked to the eligibility for, or the provision of, funding pursuant to the First Nations Child and Family Service program, Jordan's Principle or other federal funding programs or their antecedents. Moreover, ISC will ensure any reporting on the current outcomes clearly indicates the shortcomings in the reliability and validity of the current outcome measures.</p> <p>Further research is required in order to identify reliable and valid outcome measures to promote healthy First Nations families and children and to contextualize these measures in the distinct cultures, contexts and aspirations of First Nations and First Nations Child and Family Service providers. Due attention must also be given to ensuring compliance with the OCAP (Ownership/Control/Access/Possession) Principles. The National Advisory</p>		

			<p>Committee and the Child Welfare Consultation Committee will be overseeing this research.</p>		
		<p>NAN</p>	<ul style="list-style-type: none"> • Lack of clarity about what criteria will be used to determine/assess whether a proposed capital project “clearly contribute[s] towards the achievement of the intended outcomes of the Program (i.e., reducing the over-representation of First Nations children in care)” (p.2). Some NAN communities have encountered frustration lately with what they have experienced as ISC’s lack of expertise in understanding how proposals under Band Representative Services (“BRS”) clearly contribute towards the achievement of the intended outcomes of BRS specific to their respective communities’ context and needs. NAN is therefore concerned that incorporating such an ill-defined requirement in the Draft Directive is not sufficient to ensure operationalization of the requirement in a clear and consistent manner. 		
		<p>ISC notes from CCCW Meeting</p>	<ul style="list-style-type: none"> • Issue with linking investments to Program outcomes. There is not currently a sufficient evidence base to assess these outcomes. Current language assumes that outcomes are absolute. 		

	Eligibility	MCPEI	<ul style="list-style-type: none"> The second paragraph on page two of the document refers to the CHRT ruling regarding capital costs related to prevention. Is that actually what the ruling states? Was there nothing in the ruling related to capital costs for intake and investigation? Regardless of whether there was or not the terms and conditions of the FNCFS program indicate: Infrastructure purchase, maintenance and renovations <ul style="list-style-type: none"> purchase or construction of capital assets (such as buildings) that support the delivery of FNCFS services <p>Therefore given the above statement how can they say that eligible capital costs are only for prevention services?</p>	<p>Accepted.</p> <p>The document has been restructured and streamlined in attempt to clarify these matters.</p> <p>The directive now focuses on eligible capital expenditures for FNCFS Agencies under the FNCFS Agencies stream of the FNCFS Program. The document speaks very minimally about FNCFS agency building repairs as this is covered under the National Recipient Guide.</p>	Sections 2 / 3
	Lack of information on band-owned buildings	Agency Finance Working Group	<ul style="list-style-type: none"> Page 2-Paragraph 5 “Capital Expenditures such as building repairs.....With the Program’s Terms and Conditions.....” <p>In the terms and conditions document it talks about infrastructure- mainly Agency Buildings but does not discuss Band owned buildings.</p>	<p>Accepted.</p> <p>The section on the project cost cap, outlines a scenario in which a First Nation cost shares a capital project with a FNCFS Agency and speaks to how the funding cap would be applied.</p> <p>The sections on needs</p>	Sections 4 (Scenario 3) / 4.2.1 (a,c &d) / 7.1

				<p>assessments, multi-year agency plans and other requirements mention considerations regarding First Nation buildings or buildings used for more than one purpose.</p> <p>The section on Operations and Maintenance also speaks to buildings that aren't owned by an agency (e.g., First Nation owned buildings).</p>	
<p>2. Purpose</p>	<p>Actual expenditures associated with building repairs and prevention-related capital investments</p>	<p>Caring Society</p>	<ul style="list-style-type: none"> • Does this imply the agency has to apply all costs up front? 	<p>Accepted.</p> <p>For the sake of clarity, the Program has narrowed the focus of this document to eligible capital expenditures under the FNCFS Agencies stream of the FNCFS Program. As FNCFS agency building repairs are eligible for a different payment based on actuals process, this document speaks very little to FNCFS agency building repairs and instead refers the reader to the National Recipient Guide for more information in that regard.</p>	<p>Sections 2 / 4.1 / 5.1.1 / 6.1 / 7</p>

3. Minimal Requirements of all FNCFS Capital Projects	Relationship to other ISC infrastructure programs	ISC notes from CCCW Meeting	<ul style="list-style-type: none"> Regarding reference to the First Nations Child and Family Services Program, Capital Facilities and Maintenance Program and the Health Infrastructure Support Program working together to review capital proposals – process needs to recognize the distinct needs of child and family services-related infrastructure versus health infrastructure. 	<p>Accepted.</p> <p>To avoid confusion regarding the distinct needs of child and family services infrastructure and health infrastructure, the reference to the Health Infrastructure Support Program has been removed.</p> <p>A new section has been created to clarify the collaboration to take place between FNCFS and CFMP.</p>	Section 6.3
	Clarity on process and requirements	ISC notes from CCCW Meeting	<ul style="list-style-type: none"> It seems as though a lot of requirements have been placed on agencies and there is a risk that this could be confusing and too burdensome. It would be helpful to include a few scenarios to demonstrate the various steps to be completed. 	<p>Partially addressed.</p> <p>The document has been restructured and streamlined in attempt to clarify requirements and various steps.</p>	Throughout
	Multi-year planning	MCPEI	<ul style="list-style-type: none"> Many agencies are in desperate need of 	Accepted.	Section 4.2.1 (c) and

	/ lack of space		space now. If they wait for a multi- year community plan to be developed they could be waiting a lot longer to access funding.	Reference to the First Nations community infrastructure plan has been removed.	associated footnote
	Multi-year planning / Emergency-related (e.g. natural or man-made disasters) capital costs	ISC notes from CCCW Meeting	<ul style="list-style-type: none"> • Need clarity on multi-year planning process and what is done when there are unanticipated capital needs (e.g. infrastructure damaged by a forest fire). How often are the multi-year plans updated? Need an emergency pool of funding for these unanticipated costs. 	Language has been adjusted to say that the inclusion of these costs in the multi-year agency plan is preferable but that ISC will still consider proposals that were not foreseen and not included in these plans.	
		Caring Society	<ul style="list-style-type: none"> • What happens in the case of something like a fire? 		
	Interplay between FNCFS and CFMP	NAN	<ul style="list-style-type: none"> • Lack of clarity regarding interplay with Capital Facilities and Maintenance Program (“CFMP”). NAN recognizes that the draft directive states that the FNCFS Program, the CFMP, and the Health Infrastructure Support Program are currently formalizing how they will work together. NAN wishes to relay its concern that approval of capital under the FNCFS Program (to ensure compliance with orders of the Tribunal) must not detract from approval of other capital or maintenance projects/proposals. In other words, NAN believes it is critical to ensure an equivalent of reallocation that has been targeted as problematic by the Tribunal does not occur in the realm of capital infrastructure. 	Noted. A new section has been created to clarify the collaboration to take place between FNCFS and CFMP.	Section 6.3

Inclusion in Community Infrastructure Plan	MCPEI	<ul style="list-style-type: none"> I understand the need for tendering process etc. My concern is that an agency building may not be a priority in the community plan therefore if the leadership has to make a choice between what project to fund then the agency might not get funded therefore I don't support the community plan criteria. 	<p>Partially accepted.</p> <p>Reference to the First Nations community infrastructure plan has been removed.</p> <p>In the context of the FNCFS agencies' multi-year plan, it is the intent of this directive that, as much as possible, FNCFS agencies and First Nations work together on capital planning to ensure that the broad needs of the community are met. However, where there are cases where such disagreements occur, ISC and regions will continue to work with agencies to review unanticipated capital needs and requests as they are received on a case-by-case basis.</p>	Section 4.2.1 (c) and associated footnoteSection 4.2.1 (footnote)
	Agency Finance Working Group	<ul style="list-style-type: none"> Paragraph one states it has to be part of the Agency multiyear work plan and the First Nations Community Infrastructure Plan – what if it is not part of the FN Community Infrastructure Plan? 		
Creating separate technical infrastructure and tendering policies for agencies	Agency Finance Working Group	<ul style="list-style-type: none"> PIFI- Capital projects must meet the requirements of “Protocol for INAC Funded Infrastructure- We need to develop policies and procedures for the Agencies 	Noted. Suggestion to be explored further at a later date.	Section 4.2.2
	Agency Finance Working	<ul style="list-style-type: none"> Tendering Policy on Federally Funded Capital Projects for First Nations on Reserve- We need to develop policies 	Noted. Suggestion to be explored further at a later date.	Section 4.2.2

	Group	and procedures for the Agencies		
Needs Assessments	Agency Finance Working Group	<ul style="list-style-type: none"> Capital Requests need to include a description of how the proposal meets the needs of the community. – Some agencies are still struggling with how to properly do a “Community Needs Assessment” 	<p>Noted.</p> <p>Further details have been provided on what is meant by the requirement for a needs assessment within the proposal.</p>	Section 4.2.1 (a)
Operations and Maintenance	Agency Finance Working Group	<ul style="list-style-type: none"> We need to develop policies on Asset Management, Capital Assets, disposal of Assets etc. for Agencies 	Noted. Suggestion to be explored further at a later date.	Section 7
	Agency Finance Working Group	<ul style="list-style-type: none"> If the Agency purchases an asset for the Band how do we transfer the asset for our book to theirs? 	<p>Not accepted.</p> <p>At this time, the Program is not considering funding assets that an agency purchases for the ownership of the Band.</p>	N/A
	Agency Finance Working Group	<ul style="list-style-type: none"> Who owns the Asset? 	<p>Addressed.</p> <p>Should an agency purchase an asset, for their own use; the agency will retain ownership. It should be noted that the operation and maintenance of the asset will be the responsibility of the agency; and therefore, such expenses should preferably be identified in the FNCFS agency multi-year plan.</p>	Section 7.1

		Agency Finance Working Group	<ul style="list-style-type: none"> • Are bands aware they need to amortize assets that are transferred to them 	<p>Not accepted.</p> <p>At this time, the Program is not considering funding assets that an agency purchases for the ownership of the Band.</p>	N/A
		Agency Finance Working Group	<ul style="list-style-type: none"> • This whole section is unclear and needs more “directive” 	<p>Noted. The Program has streamlined and restructured the document in attempt to make this section and others clearer.</p>	Section 7
		Caring Society	<ul style="list-style-type: none"> • How is this not going to impact service levels and isn't this the equivalent of foisting the reallocation policy banned by the tribunal onto agencies? 	<p>Not accepted.</p> <p>It should be noted that the operation and maintenance of the asset will be the responsibility of the agency; and therefore, such expenses should preferably be identified in their multi-year plan in order to receive funding. Should this process be followed, there should not be any impact on service levels.</p>	Section 7
		Caring Society	<ul style="list-style-type: none"> • The current envelope does not account for this. 	<p>Addressed.</p> <p>Such expenses should preferably be identified in a FNCFS agency's multi-year</p>	Sections 4.2.1 (c) / 5.1 / 7

	<p>Funding under CFMP</p>	<p>Caring Society</p>	<ul style="list-style-type: none"> • Does allotted funding take account of these requirements and is the funding sufficient to meet these requirements? 	<p>plan in order to help forecast funding needs.</p> <p>In terms of FNCFS agency building repairs, should there be unexpected costs that could not have been reasonably foreseen and factored into the agency's annual budget, the FNCFS agency could submit a claim for eligible expenses through the claims on actuals process. Please note, however, that any surplus would have to be applied to the claim prior to receiving additional funding through the claims on actuals process.</p> <p>In terms of all other FNCFS agency capital needs (other than building repairs), currently, the only sources of FNCFS Program funding for these costs would be agency surplus funding and the increased Budget 2018 funding (remoteness and ramp-up allocations).</p>	
	<p>Clarity on process and requirements</p>	<p>Caring Society</p>	<ul style="list-style-type: none"> • What about CFS technical needs? Things like family meeting rooms, interview 	<p>Accepted.</p>	<p>Sections 2 / 3 / 4</p>

			rooms, play spaces for children etc.?	These types of expenses are potentially eligible; however the link to program outcomes will have to be demonstrated and the other minimum program requirements will also have to be met.	
4. Payment on Actuals – Building Repairs	Absolute need to purchase or construct new buildings	AFN general summary	<ul style="list-style-type: none"> The concern with several terms in the document including the word “absolute” (p.5) 	Accepted.	Sections 4.2 / 4.2.1 (a)
		ISC notes from CCCW Meeting	<ul style="list-style-type: none"> Issue with use of term ‘absolute need’ in relation to exceptional circumstances when the purchasing or construction of new buildings may be considered on a case by case basis as eligible expansions to existing agencies. Who is authorized to determine if there is an absolute need for a new location? Need to be clear on criteria on which these determinations are to be based. 	The reference to the word ‘absolute’ has been removed and a section on needs assessments further defines how need should be demonstrated.	
	\$2.5 M cap	AFN general summary	<ul style="list-style-type: none"> The concern with several terms in the document including the sentence “The total capital costs per recipient, per project and per fiscal year cannot exceed \$2.5 M (p.6 and 7) 	Accepted.	Section 4 (including footnote)
		ISC notes from CCCW	<ul style="list-style-type: none"> Reference to a maximum of \$2.5 million per recipient, per project and per fiscal 	Wording added to indicate that a recipient may have more than one project; however the total cost for each project may not exceed \$2.5M, per year. Scenarios have been included. Yes, the recipient could have	

	Meeting	<p>year seems like new language. When was the 'per recipient' added? Could a recipient have more than one \$2.5 million project?</p>	<p>more than one project.</p> <p>Wording added to indicate that a recipient may have more than one project; however the total cost for each project may not exceed \$2.5M per year.</p>
	Yorkton Tribal Council CFS Agency	<ul style="list-style-type: none"> The \$2.5 million per project, per year, per First Nation limits our ability to do joint projects and pooling their \$2.5 million. For example if 3 First Nations agree to pool their \$2.5 million to fund a larger capital project of \$7.5 million to support the needs within a geographic location, this policy will limit the First Nations to do so. example if 3 First Nations agree to pool their \$2.5 million to fund a larger capital project of \$7.5 million to support the needs within a geographic location, this policy will limit the First Nations to do so. 	<p>This clause is not intended to limit the ability for eligible FNCFS Program recipients to pool resources since each eligible recipient would be entitled to spend up to a maximum of \$2.5M per project each year.</p> <p>In your example, should 3 eligible FNCFS Program recipients wish to pool their resources, the project would receive a maximum of \$7.5M per year. (\$2.5M from each recipient)</p> <p>Scenarios have been included to provide clarification.</p>
	MCPEI	<ul style="list-style-type: none"> The cap of 2.5 million may not be enough for larger or remote communities 	<p>Accepted.</p> <p>Language has been included to clarify that instances whereby</p>

				remoteness is a factor in determining the cost of a project will be reviewed on a case-by-case basis.	
		Agency Finance Working Group	<ul style="list-style-type: none"> “The total capital costs per recipient, per project and per fiscal year cannot exceed \$2.5 million” – Is this per community for multi- community agencies?, Does Small agencies still get the same amount?, needs more clarification as all communities are recipients. 	<p>Addressed.</p> <p>Clarification has been added to illustrate how this cap is to be applied.</p> <p>The focus of this document is on the FNCFS Agencies funding stream under the FNCFS Program. Yes, small agencies would be eligible recipients.</p>	
	Reimbursement based on actuals	Agency Finance Working Group	<ul style="list-style-type: none"> last paragraph – “ The department can reimburse amounts on actuals....” 	Not addressed. Meaning of the comment is unclear.	Section 7.1
	Management of leasehold improvements	Yorkton Tribal Council CFS Agency	<ul style="list-style-type: none"> As well, for leasehold improvements, it should be managed by the CFS agency and not by a PMT (<i>Project management team?</i>) established by the ISC capital program. Maybe up to certain dollar amount, let’s say \$1.5 million where we can approve leasehold improvement projects. 	<p>Not accepted.</p> <p>In order to remain transparent, all departmental policies and guidelines should be adhered to.</p>	Section 4.2.2
Requirement to be physically located in building for day-to-	MCPEI	<ul style="list-style-type: none"> The criteria (page 6) that an agency be physically located in that building for their day to day operations will limit the ability 	<p>Partially accepted.</p> <p>The document now speaks to</p>	Sections 4.2.1 (d) / 7.1	

	day operations		to access the funds for healing lodges which are very important in the continuum of prevention services and may not house the staff or programming full time on a day to day basis.	the idea of pro-rated costs based on the extent to which an asset is being used for FNCFS purposes.	
	Absolute need to purchase or construct new buildings	Caring Society	<ul style="list-style-type: none"> Who determines this threshold? 	<p>Accepted.</p> <p>The reference to the word 'absolute' has been removed and a section on needs assessments further defines how need should be demonstrated.</p>	Sections 4.2 / 4.2.1 (a)
5. Payment on Actuals – Capital Investments Fully Dedicated to Prevention	\$2.5 M cap	AFN general summary	<ul style="list-style-type: none"> See comment on Section 4 regarding \$2.5 million cap. 	<p>Accepted.</p> <p>Yes, the FNCFS agency could have more than one project. Wording has been added to indicate that a FNCFS agency may have more than one project; however the total cost for each project may not exceed \$2.5M per year.</p> <p>This clause is not intended to limit the ability for FNCFS agencies and other eligible FNCFS Program recipients or other parties to pool resources. Each eligible FNCFS Program funding recipient would be</p>	Section 4
		MCPEI	<ul style="list-style-type: none"> See comment on Section 4 regarding \$2.5 million cap. 		
		Agency Finance Working Group	<ul style="list-style-type: none"> This section also states “The total capital costs per recipient, per project and per fiscal year cannot exceed \$2.5 million”- So is that on top of the 2.5 million as outlined in Section 4? Or is this a separate amount, if it is separate the same questions apply. 		

				<p>entitled to a maximum of \$2.5M per project each year.</p> <p>In your example, should 3 eligible FNCFS Program recipients wish to pool their resources, the project costs could amount to a maximum of \$7.5M per year. (\$2.5M from each recipient)</p>	
		Caring Society	<ul style="list-style-type: none"> • Is this new? 	<p>No; discussions have taken place during various venues throughout the past year.</p>	Section 4
Capital investments fully-dedicated to prevention / Definition of prevention	ISC notes from CCCW Meeting		<ul style="list-style-type: none"> • Issue with language regarding capital investments ‘fully dedicated’ to prevention. Could have multi-purpose buildings that are used for prevention and other purposes. On what basis do we define prevention? 	<p>Capital expenses funded by the FNCFS Program should advance the Program’s objectives.</p> <p>Language has been added that speaks to the idea of pro-rated costs based on the extent to which an asset is being used for FNCFS purposes.</p> <p>For a definition of ‘prevention’, please consult the Prevention Guide.</p>	Section 4.2.1 (d)
Designated authority	AFN general summary		<ul style="list-style-type: none"> • The need to clarify several other terms like “designated authority” (p.7) 	<p>This language was removed.</p>	N/A

	MCPEI	<ul style="list-style-type: none"> Who is the designated authority as per page 7? 		
	Agency Finance Working Group	<ul style="list-style-type: none"> Page 7 4th paragraph- “ A letter of support by the designated authority....”- who is the designated authority that is referred to?” 		
	ISC notes from CCCW Meeting	<ul style="list-style-type: none"> Regarding the requirement for a letter of support from a designated authority providing assurance that costs fully relate to prevention services: Who is this designated authority? 		
	Caring Society	<ul style="list-style-type: none"> Who is this? 		
Methods to demonstrate financial and administrative capacity	ISC notes from CCCW Meeting	<ul style="list-style-type: none"> Need to clarify meaning of requirement for evidence of demonstrated capacity in areas such as financial and administrative experience. Would the annual audited statements be sufficient evidence? 	This language was removed.	N/A
Pre-approval of project	ISC notes from CCCW Meeting	<ul style="list-style-type: none"> Confusing bullet regarding requirement for pre-approval of project. Need to clarify what is meant by this. 	Accepted. Clarification has been provided.	Section 6.3
	NAN	<ul style="list-style-type: none"> the statement at the fifth bullet under s. 5.1 on page 7 is confusing. Given that the FNCFS Program is part of “the Department”, the reference to pre-approval is confusing; NAN does not understand the requirement set out in that bullet. 	The FNCFS Program does not have the expertise required to oversee the delivery of major capital projects. Therefore, these projects will require CFMP pre-approval.	

		Caring Society	<ul style="list-style-type: none"> • What does this mean? How is the Capital Facilities and Maintenance Program differentiated from the Department? 		
Community/Agency relationship	ISC notes from CCCW Meeting		<ul style="list-style-type: none"> • Need to flesh out and clarify language in paragraph referring to situations when communities incur costs on behalf of agencies. 	No longer applicable. This reference has since been removed from the document.	N/A
	NAN		<ul style="list-style-type: none"> • NAN wishes to raise with Indigenous Services Canada (“ISC”) NAN’s concern about the strategy of having First Nations communities use agencies as flow-throughs to access funding being released to agencies for capital. As NAN has stated before, not all agencies and/or communities have the capacity to coordinate in this manner, and/or relationships between a given community and the agency that serves it is not always productive. NAN is concerned that in such circumstances, the infrastructure deficit in NAN communities will not be addressed through the mechanism proposed in the Draft Directive (p.7). 	work together on capital planning to ensure that the broad needs of the community are met. However if there are cases where a lack of capacity is a concern, ISC and regions will to work with agencies to review unanticipated capital needs and requests on a case-by-case basis as they are received.	
Multi-year planning/community planning	ISC notes from CCCW Meeting		<ul style="list-style-type: none"> • See comment made on Section 3 regarding multi-year planning. 	Partially accepted. It is the intent of this directive that FNCFS agencies and First Nations work together on capital planning to ensure that the	Section 4.2.1 (c) and associated footnote
	MCPEI		<ul style="list-style-type: none"> • See comment made on Section 3 regarding multi-year planning. 		

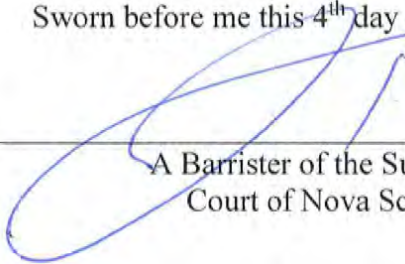
		MCPEI	<ul style="list-style-type: none"> • See comment made on Section 3 regarding community planning. 	<p>broad needs of the community are also met. However, where there are cases where such disagreements occur, ISC and regions will continue to work with agencies to review unanticipated capital needs and requests on a case-by-case basis.</p> <p>Reference to the First Nations community infrastructure plan has been removed.</p>	
Capital investments fully-dedicated to prevention / Definition of prevention		Caring Society	<ul style="list-style-type: none"> • Again who determines and what are the criteria? 	<p>Accepted. The document has been streamlined and reorganized to provide greater clarity regarding program requirements and the approval process.</p> <p>For clarification on what constitutes 'prevention' activities, please consult the Prevention Guide.</p>	Sections 4 / 6
		Caring Society	<ul style="list-style-type: none"> • What about intake/investigations and guardianship? 	<p>Accepted.</p> <p>This has been clarified. The focus of this document is eligible expenditures under the FNCFS Agencies funding stream within the FNCFS Program.</p>	Sections 2 / 3

				This has been clarified.	
	Financial capacity of agencies to wait for reimbursement based on actual expenditures	Caring Society	<ul style="list-style-type: none"> • What evidence does ISC have that all agencies have capacity to pay out of pocket for capital and then be reimbursed? 	<p>Noted. The scope of this document has changed. It focuses very little on capital costs (building repairs) eligible for funding under the payment on actuals process. For additional information on funding options for FNCFS agencies under the payment on actuals process, please consult the National Recipient Guide. ISC will consider cash advances on a case by case basis.</p>	Section 5.1.1
	Business case/ Best capital investment	Caring Society	<ul style="list-style-type: none"> • What does this look like? Is it funded? What are the criteria for appraisal? 	<p>The specific reference to a business case has since been removed but the document has been streamlined and reorganized to provide clarity regarding the program requirements and proposal review process.</p>	Sections 4 / 6
	Policy on the use of competitive tendering process	Caring Society	<ul style="list-style-type: none"> • Is this funded by ISC? Given that agencies were not approved for capital in the past it is unlikely any of them have one. 	<p>This reference to the recipient having their own policy on tendering has been removed.</p> <p>In alignment with the requirements associated with the Capital Facilities and Maintenance Program and the First Nations Infrastructure</p>	Section 4.2.2

				Fund, FNCFS agencies will have to adhere to ISC's Tendering Policy.	
6. Capital Investments Not Reimbursed under the Payment on Actuals Process	Financial capacity of agencies / lack of funding	ISC notes from CCCW Meeting	<ul style="list-style-type: none"> Use of existing budgets to fund these activities: Most agencies cannot afford to assume these costs through their existing budgets. How would factoring these expenses into the planning processes mentioned forestall the issue of the lack of funding? 	<p>Noted.</p> <p>Agencies' capital needs will preferably be included in their agency multi-year plan in order to forecast funding requirements.</p> <p>There is currently no separate funding envelope within the FNCFS Program for the other capital expenditures (not building repairs) of FNCFS agencies. As a result, agency surplus funding or increased Budget 2018 funding (ramp-up and remoteness allocations) are the only sources of funding for these costs (not building repairs) under the FNCFS Program.</p>	Section 4.2.1 (c) / 5
	Use of existing funding for capital purchases that are not strictly dedicated to prevention	Caring Society	<ul style="list-style-type: none"> Why would you fund prevention program building but not intake and assessment or prevention program if they are co-housed with intake? 	<p>Addressed.</p> <p>This directive has been streamlined and reorganized to clarify what types of capital projects are eligible for FNCFS funding. The focus of this document has also been</p>	Section 2 / 3

				narrowed to capital expenditures (very little focus on building repairs) under the FNCFS Agencies funding stream within the FNCFS Program.	
7. Reporting: FNCFS National Outcomes and Performance Indicators	Linkage to Program outcomes	AFN general summary / Caring Society / MCPEI / NAN / ISC notes from CCCW Meeting	<ul style="list-style-type: none"> • See comments made on Introduction section regarding outcomes language. 	Addressed.	Section 4.2.1 (b)
8. Other Information	No comments provided on this section				N/A

This is **Exhibit "8"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN PARSONS
A Barrister of the Supreme
Court of Nova Scotia



**Consultation Committee on Child Welfare
Assembly of First Nations (AFN)
Jeanne Mance Building
200 Eglantine Driveway, 21st Floor, ADMO boardroom, Ottawa, Ontario
October 23, 2018 (9:00am –4:00pm EDT)**

RECORD OF DECISIONS

In Attendance:

Ms. Irene Lindsay, Elder
Ms. Cindy Blackstock, Caring Society, Co-Chair
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)
Ms. Joanne Wilkinson, ADM Reform of Indigenous Child and Family Services (INAC)
Ms. Lisa Nafziger, Social Policy Analyst (ISC)
Mr. Martin Orr, Assembly of First Nations
Mr. David Taylor, Legal Counsel, Caring Society
Ms. Akosua Matthews, Legal Counsel, Nishnawbe Aski Nation (NAN)
Ms. Sarah Clarke, Legal Counsel, Caring Society
Mr. Bobby Narcisse, Nishnawbe Aski Nation (NAN)
Mr. Robert Frater, Q.C., Chief General Counsel, Department of Justice
Ms. Jessica Walsh, Canadian Human Rights Commission
Ms. Sinéad Dearman, Legal Counsel, Chiefs of Ontario
Ms. Annick Roberge, Policy Analyst, (ISC)
Ms. Helaina Gaspard, IFSD

Via Teleconference:

Ms. Stephanie Wellman, Senior Policy Analyst, AFN

1. Opening Prayer and Introductions

Dr. Blackstock welcomed committee members to the CCCW meeting and Elder Irene Lindsay opened the meeting with a Morning Prayer. A roundtable of introductions was subsequently performed. It was acknowledged that yesterday would have marked Jordan River Anderson's 19th birthday and was celebrated by the community. It is the hope to celebrate his 20th birthday in conjunction with a full compliance of Jordan's Principle.

2. Review of Agenda

An overview of the agenda was provided. Tabs containing documents corresponding to each agenda items were included in the meeting package. A suggestion was made that in the event the compensation discussion takes less time than allocated, the balance can be directed toward discussing dates relevant to the Human Rights Tribunal, as well as scheduling for the next CCCW meeting.

3. Review of Record of Decisions (September 5, 2018)

Participants were given time to review the ROD. Editorial amendments and revisions were identified for correction. Changes were noted and will be amended accordingly.

3.1 Review of Action Items deriving from the ROD dated September 5th, 2018

- **Dr. Gidcon to share the deck on the MC (Memorandum to Cabinet) process:** *The deck was presented to central agencies on September 7th by J. Thompson and Dr. Gideon. It remains unclear whether it was submitted to CCCW specifically, but it has been shared and presented at the Jordan's Principle Summit and will be sent to CCCW to make sure.*
- **ADM Wilkinson to provide a breakdown and clarification regarding the allocation of \$1.4B in funding to the Nations, outlining the amount of staff time:** *It was confirmed that \$1M allocated to Métis is still the case. A breakdown of staff time allocated is not accurately measurable as a percentage. Essentially this means the funds are the program dollars minus the \$1M, with the vast majority of staff time focusing on First Nations issues.*
- **Ms. Isaak will verify with INAC's IT department whether the sharing and distribution of documents can be executed through file hosting applications:** *Feedback indicate this remains an issue and high volume of emails and calendar requests will continue. The IT department has not been helpful and other options are being considered. A proposal was made that as an interim measure, a sub-folder be created on the Jordan's Principle Dropbox for CCCW to be monitored by Lorna who will ensure documents are added.*
- **Committee members to apprise Ms. Isaak on the preferred option in order for INAC to develop a scheme proportional to the current number of appeals:**
 - *It was suggested deliberating on feedback and developing a proposal on the basis of the FNIHB appeal process.*
- **Litigation:** *This was clarified to be in regard to litigation brought by First Nations in Manitoba regarding the Children's Special Allowance tax credit.*
- **Jordan's Principle retroactive payments:** *Mr. Conn will follow up on whether a receipt for the service, along with a note of attestation from medical personnel*

is required for families that have been previously denied: *Dr. Gideon confirmed the requirement is for an attestation that a service was provided. In the SOP, it's the same form as used for advanced payments and would be treated identically to upfront payment being made for a service, in terms of that attestation. She recommended a package explaining the process he designed and to contact families on retroactive related issues.*

- **Mr. Frater was requested to forward the settlement proposal to Mr. Jeff Bickert:** *Completed. It was also noted that this is in regard to the obstruction matter and should be reflected in amendments to the minutes as a clarification.*

4. Reference Group – Legislation Update

To provide some context, ADM Wilkinson noted this matter stems from the Minister's commitment in January to look at co-developing legislation. Over 60 engagement sessions have been held and discussions with leaders of Indigenous organizations and government were convened. A Reference Group was formed to compile viable options. The group is comprised of representatives from various groups, Canada occupying one seat and acting as the Secretariat. The paper was submitted to NAC and the Consultation Committee the 15th of October seeking comments and feedback. Discussions are ongoing, and the Chair of the Reference Group will be revising the paper. The final draft is near completion given the truncated timeline available. The question as to the extent to which AFN can engage in the development of the legislation based on historical examples where there has been some level of involvement remains. The process is somewhat fluid and may even change on a day to day basis.

An observation was made that the pacing and urgency have led to many questions surrounding the process and timeline. ADM Wilkinson advised that specific dates are unavailable but the impetus for targeting this fall was based on the legislative calendar and directives from the January meeting. Failing to have this completed by fall could result in a delay. It was reiterated that the intention is to introduce legislation this fall.

On behalf of the Caring Society, Dr. Blackstock registered an official objection for the record towards Canada's process on this matter and stated that this Table (the CCCW) was established by legal order of the Tribunal as a consultation process. Canada's agreement with one or more of the parties around this table does not foreclose its duty to other parties who are signatories to this CCCW. Canada failed to advise the Caring Society of the Reference Group until its work was well under way, which Dr. Blackstock stated was a breach of the CCCW Terms of Reference and therefore highly problematic. The intent is to provide the best quality advice to ensure Canada's compliance with the CHRT orders and in conjunction with the Caring Society's expertise and in-depth knowledge of child welfare.

It was confirmed that the notion of striking a Reference Group was later proposed, possibly in September or October. For the record, leaders in attendance of the engagement sessions being unaware of the possibility of establishing this reference group was brought up and a rationale for forming the group was requested. ADM Wilkinson explained that the

emergence of the Reference Group was in the wake of discussion that took place after the engagement sessions and was meant to compile the feedback received from sessions, rather than act in an exclusive capacity. It was stated that this is a process that was entered into by Canada as a party, acting as secretariat, knowing that other processes and interests were going on.

ADM Wilkinson outlined the feedback mechanism process. Another meeting of the Reference Group will be required to determine the direction at that point, including the outcome of the paper. In addition, no TORs for the Reference Group have been developed and a long-term objective has yet to be defined.

Speaking on behalf of feedback from Nishnawbe Aski Nation, B. Narcisse stated that dismay by the Chiefs and Grand Chief of NAN was expressed with respect to the time constraints placed and on the lack of opportunity to mull the situation and thoroughly examine the options paper. Likewise, the Chiefs have expressed the need for additional time to perform a fulsome review and ensure that any process forward or co-development of legislation would not set a national standard that could narrow or hind the scope of existing local laws. ADM Wilkinson acknowledged the concerns and iterated considerations regarding the parliamentary calendar by outlining the 2 phases: the legislative phase at a high level, and the phase of developing regulations and policies. Additionally, there is currently no contemplation in the options that national standards be looked at immediately; however, it may necessitate development over time as the process continues.

Decision Item: Dr. Blackstock issued a formal request that the draft, including responses to the feedback, be provided to the CCCW

ADM Wilkinson has committed to bring the request for the final draft to the Reference Group and reiterated the notion of engagement sessions and sharing information ahead of legislation. The Consultation Committee will be updated as processes unfold.

Action Item: ADM Wilkinson to alert the Reference Group of the request by the Consultation Committee to see a final draft and to provide updates as per the agreement

5. Jordan's Principle Update

5.1 General Updates:

- Approval by Treasury Board has been granted for off cycle funding request for Jordan's Principle for this fiscal year. However as part of the approval, Treasury Board requested a number of data requirements. As a result, a much more detailed report to the Board must be developed in the spring of 2019, underlining the process utilized to perform a needs forecasting analysis. Every effort will be made to address those requirements.
- The Client Survey Report will be sent out to JPOC shortly and will remain as an ongoing data capture. Surveys would be sent for approvals and denials - whenever a decision is issued. Consideration was given to potentially work with either AFN or

Caring Society in developing the survey into an online format to be filled out automatically through the process.

- Compliance numbers are available for group and individual based requests dating from November 2017 to September 2018 in line with the amendment orders from November 2017, which provides an effective overview of how timelines have been met with respect to the 12 hours and 48 hours.
- Standard Operating Procedures have been shared with JPOC and with regional offices. Comments received to date have been limited. The October 5th version is being used for implementation for now, while the next version is being issued which will take into consideration Caring Society comments, as well as others.

Decision Item: It was requested that the Best Interest of the Child Assessment be added to the next agenda and look at developing or incorporating this into the Substantive Equality document.

- A preliminary report was received on the 3 case studies undertaken by the Office of Audit and Evaluation. Information will be derived from those case studies. There is strong support in obtaining a report draft by next week. Once received, it will be shared with this Committee.
- With respect to data metrics and the types of culturally appropriate data measurement that will be implemented in determining outcomes, Dr Gideon explained that currently the data is simple and relates to services delivered and the number of children receiving the different types of service. Health and well-being outcomes are not being examined. A call with the First Nations Information Governance Centre (FNGIC) was held yesterday to look at a longitudinal survey of First Nations children's mental health and broader well-being outcomes, as well as to gauge the interest level in developing a spinoff survey to exhaustively explore outcomes with possible correlation with Jordan's Principle. A proposal will be forthcoming to this Committee, who would then feed into the indicators that would be developed. Dr. Blackstock mentioned that the call also referenced developing a national database on child welfare in concert with an ACE study. Officials have committed to going back and assessing available financial resources that will enable the Governance Centre to conduct a feasibility study and provide feedback to the Board, the group on the call with the FNGIC and to the CCCW.

Decision Item: In light of feedback emerging from Jordan's Principle navigators who have described communities experiencing serious issues with imposed timelines for funding, in addition to several children programs having been eradicated, a request was made to clearly underline the funding roll out, length of time for processing funds regionally, outline the impact on timing when funds requests are sent to headquarters, and commitments being made to address these issues

- Dr. Gideon referenced that at the previous two JPOC meetings the tracking number of days to issue payment was provided, and those numbers will continue to be tracked on a monthly basis. This can be shared with the CCCW in the event the Committee wished to see progress made with payment timelines. Dr. Gideon gave a detailed description and history of the organizational corporate services and the effects on timeliness of payments. Through detailed assessment, various challenges were identified. The Chief Finance Officer has agreed to have every single Jordan's Principle payment in the department shifted to the western hub in Winnipeg, which it is believed will make a significant difference. Additionally, staff is being increased with a prioritization around payment staff and people to process payments. Though a potential issue, but it's a matter of calling the band administrator or executor. This requires being proactive with every single agreement. Dr. Gideon has committed to sending a reminder across the country.
- Regarding contribution agreements, a decision was made that communities that are behind on their reporting will not affect Jordan's Principle. Funds cannot be withheld or delayed should a postponement for another administrative agreement occur. In the event of other delays, those specific cases should be directed to Dr. Gideon's attention.
- Dr. Gideon confirmed consideration has been given to broadening the Independent First Nations' Pilot Project in Ontario. This pilot project was briefly described for the benefit of attendees. As a follow up, Dr. Blackstock stated that an array of cases have been provided, in which delays in payment from Canada forced families to take loans from payday lenders at high rates of interest. She inquired as to whether any progress towards a request to have the interest payments reimbursed has been made. Dr. Gideon requested a copy of a bill or more tangible information rather than a hypothetical example so it may be assessed and run through the system. Typically, there is no authority for government to pay interest, however more information is needed to understand the circumstance.
- Dr. Blackstock suggested the need for a broadcast email that addresses direct billing, due to many cases where the expectation is to pay for a service and then seek reimbursement leading to high interest loan charges. Dr. Gideon described the effort to balance service standards and expediency with flexibility.
- The Caring Society is seeking to identify that when it is within Canada's control, that processes can be changed to ensure they are in the best interest of the child.
- It was confirmed that advance payments are now in place and require head office sign off whereas others are approved at the regional level. As to whether this can be performed by individuals on the phone during weekends or long weekends, Dr. Gideon will verify as those without access to the financial system and accounting processes and confirm.

HEALTH BREAK

Jordan's Principle Update (cont.)

5.2 Joint Plan on Addressing Discrimination against First Nations Children in the Provision of Government Services:

Discussions were held during the September 5th CCCW meeting regarding consent orders provided by the Caring Society in response to a May affidavit. This matter was not formally responded to by Canada. Dr. Gideon had committed to talking to leadership as to what could be tabled for consideration in terms of possible commitments to address and prevent discrimination in the context of the provision of services from Government to First Nations children. Questions arose from this such as the Parliamentary Budget Officer undertaking a comprehensive assessment of inequities in government services and making recommendations for funding to address those, and then the 360 evaluation as well.

The 360 evaluation was previously discussed with AFN, ITK and MNC where a broad process within the context of the department was envisioned, but can't there be developed through the CCCW a specific process? Dr. Gideon was supportive of collaboration to design a process for a 360 evaluation of the entire suite of services funded or influenced with respect to First Nations children. Dr. Blackstock referenced a meeting with Deputy Minister Tremblay and raised the Spirit Bear Plan and suggested that part of decolonization, using First Nations terms such as this should be adopted by Canada. As Member of Parliament, the Minister could mandate the PBO to spearhead the work and conduct a study given their available resources. J. Thompson stated that AFN would be in support of moving this forward.

In the meantime, it was requested that language explicitly around the Spirit Bear Plan be included, and to begin the establishment of a baseline for the work to be undertaken by the PBO, as well as to identify recommendations to address related issues. The idea is to link redress of those issues and support of positive practices to the performance appraisals for those working within the Department, particularly for senior officials, in order to change the culture.

Action Item: Dr. Blackstock had previously developed language around what a 360 tender might look like and proposed that it be circulated to the CCCW for feedback

A question regarding how this will relate to addressing discrimination in other areas that serve First Nations or impact children and families was raised. Additionally, having a plan that addresses systemic discrimination touching the non-ISC departments as well. Dr. Gideon believed it is more expeditious to work with the department under a mandate from the CCCW, whereas PBO work would have to be broader and encompass all the Public Service.

Dr. Gideon requested that NAN assist in obtaining information around the Probation Officers program or at least the contact person at NAN. B. Narcisse agreed this could be accommodated.

5.3 JPOC Terms of Reference:

JPOC reached an agreement on the revised TORs based on the last version that had been tabled at the September 5th CCCW with further adjustments and will operate on the basis of an Operations Committee.

5.4 Appeals Process:

Minor adjustments were made for clarification purposes such as public stewardship of funds, and the addition of some definitions.

Dr. Gideon had previously requested it would be acceptable, despite not having received all comments from the August 31st draft, to get started in terms of putting contracts in place with independent experts in order to get the process started. It was noted that Annick Roberge (ISC) was in attendance today as her role will consist of helping support the mechanics of setting up the process. Logistics are getting started with space, IT, contracting, etc. A memo will be sent to the Deputy Minister this week in regard to where the appeals function will be situated within the Department, and if he is comfortable with the recommendations, that will be shared with the parties for endorsement. Any other suggestions or changes requested by the parties should be shared, any adjustments will be made if possible.

It was asked whether this might apply to groups unsatisfied with the current appeals process. In response, it was stated this is something that can be determined at this table. Discussions around the use of the word "immediately" and its various interpretations came up in an effort to establish timeframe guidelines to clarify section 1.7 to recognize the level of urgency for certain cases. "The responsiveness to the presented needs of the child and the urgency of that situation for a service or product" was proposed and well received. In reference to sub-section 1.2.1, it was suggested that an inclusion of more detail to a written request such as nature of urgency or known timeframes would help solidify information.

S. Dearman raised the notion that the piece related to the age a child must be to initiate an appeal. More fulsome feedback will follow, but it was pointed out there is no strict age in law for children to access medical service without parental consent, and therefore it would be artificial to have 16 as a limit to appeal a decision with respect to medical treatment. It was suggested that if there is some language to be proposed, that could be provided. This can be expected once navigators have provided feedback.

D. Taylor asked if there is a sense to how long it will take for the process to identify members of the Appeals Committee. A. Roberge was requested to begin that scope of work;

however it is preferred that CCCW be involved in the selection of expert contractors, which will likely take about 2 months to obtain an RFP so it can then be posted.

5.5 Mandatory Training:

It has been a challenge to schedule a call with the Expert Advisory Group to start, however the scope of work was shared, feedback was obtained and those changes have been applied to the TORs. The objective of the first call will be to discuss the TORs, finalize the key themes of the training, and identify who is available to contribute to the production. Dr. Bombay is already working on the Childhood Development webinar, which will be the first of four. There is a sense from the experts that they are taxed for time. It may be worth getting a contribution agreement from an umbrella organization to do the big work and experts could peer review that rather than them doing the work due to time constraints.

In the meantime, there have been many blanket exercises underway and continuing on the development of the mandatory training program for all of FNIHB, aiming for December completion. There are other activities underway as well.

5.6 Mental Health Gaps:

The Jordan's Principle survey was discussed earlier and falls under the same item.

5.7 Ordinarily Resident Reserve:

There are no updates at this time. Language was included in the SOP, which was the language suggested to the AFN Executive Committee in the October 5th Standard Operating Procedures around questions to ask in receiving those requests.

Dr. Blackstock pointed out that Canada had been asked to send clarification to the Tribunal to contextualize the mental health gaps analysis on the decision reached regarding the Gap Analysis and expressed that the mental health gap that was filed overstates the position of the actual data. Dr. Blackstock expressed a preference that there be an accompaniment or cover letter from Canada clarifying what their current position is, and agree that there are significant gaps and inadequacies with the data provided with the gap analysis. Dr. Gideon noted there is still demographic information of value, but what is missing is community-based data. Every service being directly funded possesses the data.

Dr. Blackstock inquired as to the status of a review on a child who passed away while waiting for services under Jordan's Principle. It was confirmed it is not complete but that external reviewers are dedicated through the process. A request was made that the recommendations from that review, absent of any identifiers for privacy, be shared with this Committee.

Decision Item: Upon completion of review of this case (unnamed for reasons of privacy but known to Dr. Blackstock and Dr. Gideon), recommendation to be shared with CCCW

6. ISC Updates

6.1 Capital:

As of October 5th, more than \$2.6M has been paid towards building repairs, representing just under 6% of total claims. There is an uptake since October 5th of \$1M to \$1.5M that may have already been paid. Agencies are encouraged to continue submit claims.

A question was posed as to where on the website is it available to see how much the capital is so that the 1.5% budget increased for inflation figure can be cited for their reimbursement. ADM Wilkinson indicated that this will have to be looked regarding the website and look at increasing awareness. An interim document was requested.

Action Item: ISC to send interim document reflecting 1.5% increase for inflation figures

6.2 Terms and Conditions:

Interim Terms and Conditions will no longer be one liner description in the Terms and Conditions and the cap is being updated. Based on input, it will be increased on the minor capital project from \$1.5M to \$2.5M to account for inflation. This will be included in a directive for capital in order that any changes in the future do not require a Treasury Board process. There is no longer reference to major or minor capital; it is simply referred to as capital.

An example was provided in which housing was bought and staffed for a special needs case. If this is determined to be a preventative service or maintenance cost, can that be billed under maintenance and prevention? ADM Wilkinson stated that this example will have to be researched to provide an answer.

A question was posed as to whether the directive on capital's \$2.5M limit will take into account cost escalations for remote areas. In response, it was explained that work is still ongoing for remoteness quotient and will be looked at once information is available, however \$2.5M may have been augmented above inflation to account for this. A draft record will come to this table, at which time it can be discussed further. As part of the ongoing work, agencies have not been advised of the \$2.5M. It is part of the update to the Terms and Conditions; a directive will be drafted and come to this table. This can be formalized upon confirmation of the Terms and Conditions.

It was asked if there is any possibility that this upward adjustment to \$2.5M will be next. The current \$1.5M is already in the current Terms and Conditions and it's been upgraded for inflation within other ISC programs. Because that's not conditional on renewing any authority, there could be a quick relay to these agencies and NAN territories to indicate this is coming and materials can be ordered now so the window of opportunity isn't wasted before winter roads are closed. It was explained that the Terms and Conditions must be approved. The directive would come to this table and that discussion would be held.

Action Item: ADM Wilkinson will verify that the current Terms and Conditions include the \$1.5M, which means approval to dispense with the \$1.5M, but as of today \$1.5M can be spent. This can be subsequently communicated to the CCCW

It was noted that P. Isaak had previously agreed to send a letter indicating what recommendations that had been made that were not incorporated into the terms and conditions; however this letter has yet to be received to date. Now that she is no longer in that position, the question of who will send that letter and when was raised. It was confirmed the letter will be shared once the Terms and Conditions have been finalized.

S. Dearman, on behalf of her clients, raised the importance of capital going directly to First Nations for prevention related services. As it stands, FNCFS Capital Options paper was only directed to 2 agencies. Ontario First Nations want to move towards providing stronger prevention services and the option to choose who provides those services. Some communities want services provided by an agency, others may want to deliver prevention services themselves and are unable to access the capital funding. In some cases a band office will have capital needs that must be met before it can deliver the services the Tribunal has ordered Canada to fund, which seriously impedes the ability for First Nations to live up to the new program funding that's available. With respect to the \$1.5M, it is the Chiefs of Ontario's position that this should be available for First Nations directly as well.

Action Item: For clarity purposes, it was proposed that ADM Wilkinson determine to what degree it already applies. There may be just an information gap. If this addresses at least some of the capital needs, it will surely be of benefit. ADM Wilkinson has agreed to follow up on this

LUNCH BREAK

7. CWJI/Saskatoon Tribal Council

**In the interest of time, it was agreed to combining these two agenda items*

ADM Wilkinson noted that a document was included in the meeting package. In the interest of time, rather than going through the document, ADM Wilkinson proposed addressing questions.

A point was raised about the guidelines currently being used. For the Ontario region, a decision on how to break down those funds will be made during the Special Chiefs Assembly in November. As such, it is requested obtaining a response to feedback prior to the CWJI guidelines being rolling out to communities. S. Dearman requested that a response to all of the guide feedback be provided before the Special Chiefs' Assembly in order to allow that the Chiefs to be better informed to make decisions on fund distribution.

Action Item: ADM Wilkinson to follow up on request for response to feedback and forward it to the Chiefs of Ontario

Dr. Blackstock asked if ISC is continuing with the figure of \$80M as the total 2018-19 CWJI budget seeing that this amount was developed without Ontario, who protested being excluded. Ontario's cost was approximately \$17M. Rather than increase the allotment for all, Canada reduced the allotment to all the other provinces. There was a request that

Canada receive the \$80M plus the amount for Ontario to avoid reductions to the other provinces. Dr. Blackstock requested a status update on this topic.

Action Item: ADM Wilkinson stated \$80M was approved for 2018 and that there are no dollars above that, but that this will be verified

D. Taylor commented that in previous discussions, as regions draw down allocations there would be updates and what was understood is that before going back to Treasury Board, ISC wanted a case to go back, and part of that is seeing how the money is rolling out. It would be helpful for this table to have a sense of the progress made on that front. It appears that in some cases, the approach adopted by certain provinces is based on the amount of funding in the envelope rather than needs. Additionally, the word "proposal" arises several times and based on previous meetings, there was importance place on avoiding proposal-based funding. It may be the regions are adopting a proposal-based approach, but there have been suggestions to be mindful of the limitations that approach can impose versus addressing actual needs.

7.1 Saskatoon Tribal Council:

With respect to Saskatchewan, the amount allotted is \$9,725,000, and the Caring Society's understanding is that this year the full allotment to Saskatoon Tribal Council is part of Canada's settlement of the STC's litigation, which settlement is in the area of \$50M. The question directed to Canada is "why tap into CWJI funding to pay for costs that are litigation related?" Additionally noted for this table, the question had been previously asked to what degree of consultation was there to other First Nations in Saskatchewan before the decision was made to allot such a large amount to STC, the answer being that there was no consultation. Unless these facts are in error, it is Dr. Blackstock's contention that this money should come from INAC budget rather than CWJI.

ADM Wilkinson elected not to comment on the court case due to unfamiliarity with the details. This is not a settlement, but rather funds towards prevention that go to the representation of 10 out of 13 unaffiliated First Nations. The hope is they become delegated, then funds would derive from the agency pot. Dr. Blackstock conveyed that the fundamental issue is that something of this magnitude should have involved consultation and requested that Canada locate another source of money to pay this out of.

Dr. Blackstock recited the Newswire announcement on Saskatoon Tribal Council to the table.

Action Item: It was suggested this be brought to the next meeting and share with M. Orr to disperse to the group

7.2 Small Agencies:

The letter was sent to small agencies October 16th to clarify their ability to retroactively claim staff salaries and benefits. It was asked if there are any other areas considered based on loss from downward adjustments. It was explained that nothing can be paid for costs that were not incurred. Dr. Blackstock shared concerns that the reason the funds could not

be incurred was due to discrimination by Canada against the agencies. ADM Wilkinson responded that there is no proposal by Canada at this time to address this, but will follow up further.

**At this time J. Thompson introduced H. Gaspard to the table. A brief roundtable of introductions was conducted.*

8. IFSD

H. Gaspard provided a brief update and through her presentation graphically explained some of the conclusions as followed:

- 75% of agencies are represented in the population of data, which should provide meaningful material. It was noted that not every question was answered, and not every answer was usable. This is seen by varying *n* values.
- IFSD was tasked with 2 functions: to understand the baseline within the current context, and the other to assess need in the current context and project it forward. The current stage is in the forward projecting phase. There is now a financial description or model of what's happening inside agencies. It's been possible to organize agencies by typology, which helps understand what drives cost. 80% of agencies look similar, in that costs tend to be driven by the number of children and communities served. The focus for today was on the 20% whose budgets are principally affected by accessibility. Agencies having one community inaccessible by road experienced exponential cost increases.
- It is understood that much work has been done by ISC and NAN on the remoteness quotient. Principles were drawn from the Wen:De report as well as the data itself to see how agencies were spending.
- Graphs were employed to illustrate that while travel costs trend upwards as distance increases, after 200km away the costs increase dramatically. This suggests something else is happening in those buckets.
- It was identified that there are budgets almost twice as high in the 20% grouping of one community inaccessible by road. This also manifests in a staff level one and a half times bigger. There are also more children in care, which could be influenced by a number of factors. Travel costs for these agencies are 5 times those that have road access to all communities. It's suspected this typology will have to stand alone in some ways and agencies within that category may have to be funded differently.
- Division of agencies was observed by the funding formula. Nothing could be seen at the surface level. Some questions were asked related to deficits, underfunding, etc. Nothing clear arose, however going back to some of them and clarifying can certainly be done.

Dr. Blackstock expressed interest in seeing staff travel expenses juxtapose to clients needing to access services and being flown out. Additionally, there has been feedback from urban First Nations that their costs are higher due to high expenses in accessing buildings, and due to servicing a large First Nations population and H. Gaspard was asked to study the benchmark of over 1,000 child population served and the impact as a cost driver. H. Gaspard confirmed that large vs. small can be run again and check what is happening there. On the urban side, due to rent, things tend to trend upward with population, however another look can be taken at capital and other expenditures.

A question on volunteer sector funding was posed. One of the key things emerging from a study was at the time 60% of voluntary funding was provided by the federal/provincial/territorial governments. It was suggested asking Stats Canada for current data on voluntary sector influence or obtaining more recent federal data.

In regard to capital needs, during workshops conducted in Ottawa and Saskatchewan, several individuals spoke about the need for capital, especially for prevention type programming because agencies simply do not have the infrastructure to deliver programming in that way. When looking at the capital question, of agencies that actually needed building repairs, the estimated costs were about \$32M in total, or \$780K per agency. Those that undertook repairs had an average cost of \$145K.

It was noted that several agencies have had engineering assessments and estimates. Those have been provided to Canada. Dr. Blackstock asked if there is a manner to assemble those from agencies that have them available, even if identifying information was redacted and just note the amount of money received for regions from agencies would be sufficient.

Infrastructure was raised in terms of costs for increasing power grids to allow for operating agencies. H. Gaspard cautioned that while numerous factors have been discussed and acknowledged, at this juncture certain cautions need to take place for what the data can reveal and restrictions on what is looking to be answered are in place to answer questions. There are a certain number of things that will be reflected but are taken into account.

Dr. Blackstock asked if the data is sufficient to perform multi-level analysis as it would be interesting to see if there was overlay of socio-economic conditions of different First Nations to the child in care population. H. Gaspard explained that with the assistance of someone from Stats Can, files are being built for each agency and its surrounding community, and pulling apart all the socio-economic data currently. The plan is to take a look at the profile and build a map to show the pieces. This would be clustered with identifiers removed. This would show each agency with the surrounding communities and line it up with the data provided.

9. Compensation

The letter from Mr. Frater to Mr. Taylor included in the kit indicates that obtaining feedback will take longer than anticipated. Mr. Frater responded that the letter restricts

from speaking further on the matter, but is neither due to unwillingness nor the commitment from the outset to resolve this, rather in light of significant amounts of money and instructions required prior to having a fulsome conversation. Those instructions are anticipated late November.

Dr. Blackstock stated there was a hope to at minimum discuss some parameters in light of the March deadline looming. There are key variables causing a full stop. It is unknown what parameters if any about what Canada is putting around what a victim is. Are small agencies in the pool, is it just children in care, is it families, does this include Jordan's Principle, and the willful and reckless character of the discrimination? All these matters are pivotal in making informed decisions.

This leads to a current stage now with two components. One is not relying on a compensation process to resolve the small agency issue, particularly because there is no clarity as to how this will play out. This will probably lead to a submission to the Tribunal to move on the small agency issue. The second component is to set dates with the Tribunal to hear this matter. They've been gracious about trying to make schedules available, but some dates should be set. The Caring Society is keen to resolve whatever is possible by mediation or adjudication if necessary.

Dr. Blackstock asked if certain questions could begin to be addressed now. This was rejected at this time due to the scope involved in those matters until instructions are received. ADM Wilkinson suggested that for Ministers may be unpredictable in their opinions, and therefore starting in one direction may be fruitless if a different direction is taken by Ministers.

Mr. Frater noted that D. Taylor has managed to establish dates for everyone, and that the next issue is to get to a list of items that will be unresolved to have argument on. The next phase would be to determine if any of those are suitable to mediation/adjudication. There needs to be an agreement on a date by which the issues are going to be, and then schedule how much time each issue are going to take. By early December, there needs to be some idea of what's left to argue and whether that is adequate time to argue those issues. Canada's willingness to mediate/adjudicate is dependent on the issue.

D. Taylor noted that when looking at dates, there are two in January and further in February and March. Those January dates appear to offer opportunity for some kind of mediation discussion with panel members. If this could be leveraged contingent upon everyone's willingness, this would prove to be helpful.

Dr. Gideon asked if it would be pragmatic to get a list from the parties' perspective of the outstanding issues for the next CCCW. A formal list of issues would also assist in seeking instruction for a possible mediation process. D. Taylor added that some of this can be sorted out by correspondence in advance. J. Thompson clarified whether a formalized list is needed, and it was confirmed this would assist in getting authority where it is needed. Mr. Frater stated that this does not preclude continuing to work on issues towards resolve.

Additionally, it would be highly helpful to ask the Tribunal for their questions on compensation.

Dr. Gideon brought up the issue of the definition of a First Nation child and stated it would be helpful if AFN had the ability to identify how many members with First Nations without status live off-reserve, who they are, and a possible process where that information could be accessed by Canada if that's going to be a position advanced in mediation. Eventually this would require establishing a mechanism consented to by First Nations leadership around ways to verify who those children are without disclosing the identity of the child in the context of a confidential request for a service from the government.

J. Thompson stated that this hasn't been discussed with leadership or technicians to a great extent. There will very likely be scenarios where a community will consider a child part of the community, but they are not on the membership list. There are scenarios that will have to be accounted for. It's about rightsholders upholding their rights to determine who their citizens are. That will be at the forefront for leadership to look at when presented with this.

A lengthy discussion ensued about the definition of a First Nations child, self-identification/declaration, rightsholders determination, communities recognizing members and the challenges faced in the system.

Mr. Frater raised an issue that affect timing for the Tribunal for those dates. There is a schedule for cross examination next week. Is there expectation of more affidavits from Canada at the end of November such that there be more cross examination dates, or can there be cross examination on things beyond the affidavits to eliminate having to spend more time on preparing affidavits? A response is not required today, but this is a timing issue. D. Taylor reviewed the dates for the Tribunal as: 8th and 9th of January, 6, 7, 8 and 12 of February, lastly the 26th and 27th of March. The Tribunal circulated a mediation/adjudication document for comment; however amendments may be required.

Logistics of next week's cross examination were discussed.

Decision Item: It was requested that dates be set aside by the Tribunal based on the reply from Tribunal on available dates and subsequently formalize a list to the federal government

10. Future Meeting Date

November 19th was set as the date for the next CCCW meeting (full day) and December 11th is the tentative subsequent meeting.

Meeting Adjournment

Elder Lindsay closed the meeting with a final prayer. The CCCW meeting officially adjourned at 3:34 p.m. EDT



**Consultation Committee on Child Welfare
Assembly of First Nations (AFN)
Sheraton Hotel - 150 Albert Street (*Penthouse A&B*)
April 2, 2019 (1:00pm -4:30pm)**

DRAFT RECORD OF DECISIONS

In Attendance:

Ms. Irene Lindsay, Elder (Wolf Clan)
Dr. Cindy Blackstock, Caring Society, Co-Chair
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair
Mr. Martin Orr, Assembly of First Nations
Ms. Julie McGregor, Sr. Legal Counsel, AFN
Mr. Stuart Wuttke, Legal Counsel AFN
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)
Ms. Isa Gros-Louis, Director General (ISC)
Mr. John McLean (ISC)
Ms. Pamela Burr, (FNIHB, ISC)
Mr. David Taylor, Legal Counsel, Caring Society
Ms. Sarah Clarke, Legal Counsel, Caring Society)
Ms. Kara Kennedy, Assembly of First Nations
Ms. Lorna Martin, Assembly of First Nations
Mr. Brian Smith, Canadian Human Rights Commission
Ms. Jessica Walsh, Canadian Human Rights Commission
Mr. Louis-Alexandre Guay, Department of Justice

Via Teleconference:

Ms. Odette Johnston, A/Director General of Children and Families (ISC)
Ms. Akosua Matthews, Legal Counsel, Nishnawbe Aski Nation (NAN)
Ms. Stephanie Wellman, Assembly of First Nations
Ms. Ruby Miller, Director of Social Services (COO)
Ms. Judith Rac, Legal Counsel, (COO)

Regrets:

Ms. Joanne Wilkinson, Assistant Deputy Minister, Children & Families Branch (ISC)
Mr. Robert Frater, Q.C., Chief General Counsel, Department of Justice
Ms. Sinéad Dearman, Chiefs of Ontario
Ms. Maggie Wenthe, Chiefs of Ontario

1. Opening Remarks and Introductions

Before officially calling the meeting to order, Elder Irene Lindsay offered an opening prayer. Mr. Thompson welcomed committee members to the CCCW meeting, followed by a roundtable of introductions.

2. Review of Agenda (April 2, 2019)

An overview of the agenda was provided. Tabs containing documents corresponding to each agenda item were included in the meeting package. It was noted that there has been no official announcement on the tabling of the Act of the Office of the Commissioner for Children and Young Persons in Canada (*Private Member's Bill C-420*) as it was targeted for today, but given current events may have been delayed. There were no additions or changes requested to the agenda.

3. Review of Record of Decisions (January 17, 2019 and February 12, 2019)

Minor changes were flagged and applied to the January ROD, which can now be finalized. CCCW members were requested to forward editorial comments on the February 12th ROD to Martin's attention for final approval at the next meeting. Action Items deriving from the latest ROD were reviewed. Although several items will be dealt with under ISC updates and Jordan's Principles updates, the following action items remain outstanding and will be followed up on:

- *J. Thompson to schedule a special teleconference with Laurel Lemchuk-Favel, during which time she can directly answer any questions. It was also recommended scheduling a call with [REDACTED]*
- *ISC website to reflect items eligible for funding and those that are not. In addition, ISC was requested to develop a communiqué specific to capital needs, along with associated timeframes: It was confirmed that while the Terms and Conditions have been posted on the Department's website, a communiqué specific to capital needs has yet to be developed. O. Johnston was unable to provide a clear timeframe for posting the info but estimated providing a response in the coming weeks as work on the written directive must be undertaken first and further clarification on the infrastructure required, which has now been clarified.*

This outstanding issue was originally brought forward in October, and is now up for discussion before the Tribunal on April 23rd, 2019. To the extent that this matter can be sorted by agreement and the proposal of a plan ahead of the Tribunal's date, the CCCW would be amenable to a final discussion with Canada towards a speedy resolution as further review is no longer an option.

***New Action Item:** Even in draft format, O. Johnston was requested to provide written assurances on the directive specific to capital needs, and if possible prior to April 12th given the horizon on the Tribunal's timeframe and set dates.*

- *Canada to confirm whether capital expenditures associated with new prevention programs on actuals are eligible under the current Terms and Conditions, as well as confirm whether band reps requests in terms of capital have all been approved: O. Johnston will report back to the table on the eligibility of capital expenditures. With respect to band reps, she alluded to the challenges in defining which expenditures fall under capital, as often claims received do not reflect a cost breakdown.*
- *Canada to provide guiding national principles for incoming requests to ensure equality at the regional level, as well as provide information on the adjudication process for the distribution of CWJI for next year: O. Johnston will follow up on the CWJI, but stated that each region has consulted with their First Nation partners on the allocation of CWJI and generally speaking, items that received funding last year can likely expect continued funding. O. Johnston will also confirm whether the \$50M drawn from the CWJI that was disbursed to the Saskatoon Tribal Band will be reimbursed by INAC through another funding mechanism giving their special circumstance.*
- *O. Johnston was requested to perform a regional inquiry into why agencies are being instructed to redirect funds from Jordan's Principle for reimbursement of expenses: Dr. Gideon confirmed having performed an analysis for Ontario outlining the number of requests funded through Jordan's Principle submitted by agencies. The language in the Terms and Conditions on prevention under the FNCFPS program is subject to interpretation, making it difficult to clearly define what's under Jordan's Principle and what's under prevention. One of the Orders under Jordan's Principle specifies that requests received must be determined on an individual basis, and if deemed eligible expense under prevention, it can be charged in the hack-end of that budget. As per ISC request, the performance of a broader national analysis is currently underway.*

***New Action Items:** Canada was requested to draft a memo that provides specific instructions to CFS staff, which will first be shared secretarially with the CCCW for review. In addition, Dr. Gideon will share the analysis developed for the Ontario region*

4. ISC Updates

Legislation: Bill C-92 is progressing through the parliamentary process, and will conceivably include consideration of the Bill by the House of Commons and the Senate Committee. The second reading at the House of Commons began on March 19th and will continue at a later date to be determined by Parliament. In an effort to streamline the process, Isa Gros-Louis reported that the Senate adopted a motion on March 19th authorizing the Senate Committee on Aboriginal Peoples to undertake a pre-study of the Bill to ensure its tabling by the end of June. The CCCW is eagerly awaiting a response from

Minister Seamus O'Regan to the Chief's letter regarding the process going forward, which will be critical ahead of testimonies during the pre-study stage.

Although the Department is well-aware of the issue, there have been no conversations with the Rights Holders currently objecting to Bill C-92. As it stands, the process to voice impending concerns is either by making submissions to the House of Commons Committee or Senate Committee, or by becoming a witness. As an enabling legislation, I. Gros-Louis stated it isn't imposed on any First Nations and that the framework applies to a wide range of scenarios: from communities lacking the capacity and wanting to continue to operate with provincial services, to communities looking to exert partial or full jurisdiction. Under Section 20.1 of the legislation, it enables communities to do so without having to enter into an agreement with the province. In the event an agreement on the operationalization of the legislation exercised by the community is required, a request for a tripartite coordination agreement with the respective province or territory of residence must be put forth, which must be reached within 12 months. At the conclusion of the 12-month period, the legislation then becomes federal law with precedence over provincial law in the area of child and family services.

Being a federal legislation, clarification was sought to ascertain whether it's at the province's discretion to provide that higher standard, or if the decreased standard would be layered in addition. In response, D. Taylor stated that according to the paramountcy provision, in the circumstance of an inconsistency between the two standards whereby the province exceeds service levels, those services would continue in accordance with the province's law; however if the province was delivering lower standards of services, it would necessitate an augmentation to federal standards. In the event a province was to repeal its legislation, federal precaution previously in place would be in effect at that point.

Concerns around the funding provisions were broadly shared, mainly around the strategy for applying standards within the collaborative agreements to ensure the province does not revert to lower ones, and whether Canada intends on funding optimal standards selected by First Nations. I. Gros-Louis stated that funding was not addressed in the legislation as further conversations with NIO partners within the context of the transition governance structures (*i.e.: distinction-based underpinnings*) to identify overlaps and gaps will be required. Available funding at the provincial and federal level will also be addressed, as well as within the context of coordination agreements with PTs, which will all occur during the second phase of the engagement process. Although the Department is at the preliminary stage of considering the transition governance structures, it will be ensured that proper representation is in place. Rather than focusing on a dollar figure, Canada was urged to instead consider the implementation of a funding approach geared towards the achievement of outcomes and principles. Given the absence of any safeguards in this particular piece of the legislation, the CCCW requested obtaining a firm commitment that funding will reflect the standard of substantive equality included in the Bill.

***Action Items:** For transparency sake, Canada was requested to provide written assurances for the communities as this consultation process unfolds. Also, confirmation that initial funding for FNs to develop their laws and institutions will be available, as well as for the*

negotiation of coordination agreements was requested. Lastly, in light of the Bill undergoing an unusual process taken up by the Senate Committee while remaining before the House, it was requested that status of the Bill and the opportunity to provide input be clearly communicated

Budget 2019: \$1.2B over a 3-year period has been earmarked for Jordan's Principle and \$220M was allotted towards the Inuit-specific Child First Initiative, which will be cash managed until funds can be accessed through supplementary Estimates (A). On the CFS side, O. Johnston confirmed no reduction on the funding projections for the CWJI (*i.e.*: \$1.4B rolled out over 3 years) advised of last year has been applied, and that funding for the years 2019/2020 will remain available. It was commented that the absence of any surplus for CFS funding highlights the lack of funds for Budget 2019. Though not reflected in the Budget decision, Dr. Gideon confirmed approval to return to the adoption of a long-term strategy was granted, which warrants further discussion on the implications particularly with the exclusion of continuum of care or service model for aging out in First Nations communities. The framework developed during the first phase of IFSD's work along with other ongoing studies can be expanded upon, and subsequently dovetailed in the broader approach.

IFSD Proposal: Canada had nothing further to add subsequent to ADM Wilkinson's email dated March 26, 2019. The Caring Society, COO and AFN were all in agreement, along with NAN who confirmed having no objection to proceed with IFSD's proposal as written, bearing no reason to forestall the process. Further to ADM Wilkinson's email and to ensure nothing unforeseen in terms of impact, an update on the identification of a funding source within existing program resources as a result of the Reallocation Policy was requested. O. Johnston was unable provide a definitive answer but explained that the Department has reached its budget ceiling and that in light of claims received, all financial resources will be required to implement the Order. It was reminded that the onus is on the Department to propose an alternative source of funding that avoids adversely hurting children, families and communities, and to fund the long-term reform as a requirement by the Tribunal.

Action Item: *O. Johnston will inform ADM Wilkinson of the unanimous consensus reached among the parties to move forward with IFSD's proposal*

Update on Claims: With 15 small agencies having all been subject to downward scaling, ISC was asked to speculate on the relatively low number of CFS retroactive claims received from Quebec agencies in contrast with other regions. It was confirmed that both the regions and the AFNQL were made aware of their eligibility with Canada having followed up on this issue several times. O. Johnson attributed this to a business model currently being worked on, as well as a more upfront approach by the Quebec region.

Further clarification on Canada's process for the adjudication of cases and methodology for applying the retroactive portion of the Order under Jordan's Principle was sought, citing a particular case filed 12 years ago of a child recently attained the age of majority and suffered acute trauma. In response, it was confirmed that a review of all cases previously denied under Jordan's Principle was undertaken and tabled in the affidavit presented to the

Tribunal, though no deliberate process for the adjudication of this case was instituted. Dr. Gideon has contacted key leads to provide assistance with that particular community in identifying services that can be provided to youths.

Action Item: Dr. Gideon will confirm whether the information submitted on retroactive cases dated March 14th is reflected in the current SOP

It was recommended convening more discussions on the matter to service young people who faced discrimination and avoid penalizing them from receiving service merely because at the time it was not available.

5. Jordan's Principle Update

Joint Appeals Workplan Proposal: The Joint Appeals Workplan Proposal along with the Statement of Work for the Consultant reflecting amendments from the Caring Society was attached in the meeting package. The objective is to issue the RFP in the imminent future in order to initiate undertaking of the work. The framework outline process would still be in effect. New information arising will be forwarded to the ADM of Regional Operations for reconsideration. To avoid incurring a cumbersome workload, an amendment was proposed by Dr. Gideon whereby rather than assigning the review of appeal assignments to the Appeals Committee Chair, she suggested reflecting that the Secretariat would propose appeal assignments to the Appeals Committee Chair to review. Subject to minor editorial changes, the CCCW was in agreement to accept the Statement of Work as presented.

Action Item: ISC was requested to capture the information in the stats as well

Common Secretariat: In an attempt to address some of the administrative hurdles encountered over the last couple of years, the establishment of an ISC Common Secretariat is currently underway. To ensure a transparent process, a basic job description outlining the role of the Common Secretariat was drafted. Directing all materials through ISC will result in better streamlining, coordination, sharing and tracking of documentation, as well as enable the provision of enhanced support to committees such JPOC, the NAC etc. The individual would act as the issuer of communication and will be tasked to develop a tracking sheet to monitor feedback sources and submissions. A one-month timeframe was estimated for the creation of the email followed by identifying a suitable candidate (*likely at an AS-2 level*).

Reporting Framework: Intended for the CCCW, the reporting framework will require several adjustments as the Department continues to operate from manual-based systems. In terms of information to capture around compliance, it was deemed valuable for the CCCW to provide outcomes-based subsets to achieve under Jordan's Principle. The objective is to initiate the work on the adjustment of data collection sometime in June. Although a date has yet to be determined, a more extensive data workshop for Jordan's Principle aimed at identifying key indicators to track and offer assistance with the FNIGC, the long-term survey, with information systems etc. will soon be organized. Provided that

the workshop encompasses adequate representation comprised of key regional and national players, the CCCW was supportive of the concept. The Department had no objection to exchanges with additional factions and confirmed the ability to suggest variables. Dr. Gideon stated having conducted an initial assessment of what could be regarded as provincially/territorially insured services, and gauge what is within or outside the limited standards. The IOG can provide assistance in performing a more in-depth analysis. AFN has agreed to facilitate the contracting process, and once finalized the analysis will be shared with this table.

Action Item: CCCW members were requested to forward comments on the reporting framework to Dr. Gideon's attention by April 12th

Jordan's Principle Authorities: Despite ongoing efforts, Dr. Gideon was unsuccessful in obtaining approval from the PCO to share the decision made by the Prime Minister, still efforts will persist to ensure Jordan's Principle authorities are truly reflective of the Orders.

HEALTH BREAK

**To accommodate early departures, it was requested immediately addressing the Compensation Issues and resuming with Jordan's Principle Updates thereafter*

6. CHRT Issues (Compensation)

Canada's counsel on the class action has yet to be appointed and the CCCW will be informed once the information is available. Deadlines will be set with the case management judge. Over and above the submission that will be filed tomorrow, the Caring Society anticipates filing a notice of motion for Jordan's Principle children deemed ineligible as a result of the discriminatory definition applied by Canada to broaden the scope of the compensation request so it also includes children placed out of home care from 2006 forward. The Caring Society remains open to mediation with the pre-cursor that Canada's position on items raised be pre-identified.

Jordan's Principle Updates: (Cont'd)

Car Seat Approvals: A comprehensive analysis for the refinement of car seat requests data was performed, including the amendment on the number of approved requests to reflect 24 in lieu of 26. To date, only one case with a linkage to a hospital visit was received.

Best Interests of the Child: A draft document on the principles for safeguarding the best interests of the First Nations child, which assimilated comments by the Caring Society, NAN and other regional offices was included in the meeting package. The objective is to help situate this particular aspect of the CHRT Order as it applies to Jordan's Principle and would replace the section around the best interests of the child in the SOP. Subject to minor wordsmitting, the CCCW was in agreement to accept the document as presented.

Action Item: Dr. Gideon and Louis-Alexandre Guay will confirm whether the information on the document is in alignment with the draft legislation on the Best Interest of the Child

In addition to this document, focal points put forth a request to obtain information originating from an operational lens. Accordingly, Dr. Gideon suggested distilling material from the document into a 1-pager tear out sheet in order that focal points can use as a refresher to the Best Interest of the Child application. A draft would first be presented to the JPOC to determine whether a formal decision is required.

Service Coordinator Key Messages: Key messages oriented towards the continuity of Jordan's Principle were formulated. The document will be shared with Regional Service Coordinators to facilitate providing assurances on the legal obligations, on the budget decision and on the Interim Relief Order as it currently stands. The document will be circulated to AFN and PTOs as well. It was commented that substantive quality may not be a consideration the requestor would be able to provide to focal points, which would also apply to community and group requests.

Action Items: ISC was requested to consider adding a prompt for the service coordinator to refer to the Synergy in Action database or to use a community profile in order that socio-economic conditions can be identified to alleviate the burden on the requestor. In addition, it was requested categorizing child receiving palliative care as urgent cases, which will also require amending the SOP

Policy on Clinical Case Conferencing: Concerns by the Caring Society relating to the decision as to whether or not to use Clinical Case Conferencing were brought forward. There was agreement in convening more fulsome discussions on the procedural approach.

Action Items: CCCW members were requested to provide feedback on the draft Policy and Procedures document to Dr. Gideon's attention by April 12th. The Department was requested to provide a list of the conditions or criteria under which Canada would seek a second opinion, and more explicitly when not to do so, as the Tribunal is very clear on the matter. Lastly, it was requested engaging in consultations with recognized colleges to confirm consistency with their guidelines on second opinions

Executive Staff Performance Measures: A blurb of the performance objectives with proposed language by ISC was attached in the meeting package. Though not yet created, input from the CCCW on the executive staff performance agreements was solicited. ISC's performance objectives will be tabled in the coming month at the ADM level and subsequently disseminated to the staff throughout the Department. FNIB's performance objectives can be shared with this table upon request.

Action Item: CCCW members were requested to forward comments on the performance objectives to Dr. Gideon's attention by April 12th

Information Update on SOP: The Jordan's Principle SOP's update was included in the meeting package. Extensive work in coalescing comments received by the Caring Society

and regional focal points is currently underway. A subsequent draft will be developed and presented at the next JPOC.

Action Item: Dr. Gideon will confirm whether clean versions of the SOP were submitted due to certain items in revisions marked urgent that require verification of reflection and implementation on revised phraseology of these sections

Management Control Framework: Through its detail, the framework provides a sense of the process surrounding this piece. The second phase of internal audits is underway and regional site visits are currently being conducted. Results of Phase 3 will be available in the fall. The internal Phase 1 audit report is not yet available but once publicly released, it will be shared with this table. It could not be confirmed as to when the Auditor General of Canada will be releasing their overall CFS audit report.

Due to the majority of work performed in-house coupled with the lack of expertise at HQ on CFS, the Department was requested to consider having independent observers on the CFS Appeals Committee. As a member of the Appeals Committee, Dr. Gideon confirmed having received one appeal towards the end of March which has been filed for judicial review at the federal court. The CFS Appeals Process was built within the JP Appeals Process and added to the Statement of Work.

Action Items: Dr. Gideon will follow up with ADM Wilkinson to confirm if approval for the development of a Jordan's Principal Appeals Process has been granted. In addition, she will relay the CCCW's request to allow an independent observer on the CFS Appeals Committee to ADM Linda Clermont. Also, Dr. Gideon will confirm whether the CFS denial letters will follow the same process in the event an appeal is denied

7. Closing Remarks / Next meeting date

Several CHRT dates have been scheduled for the month of April. The next CCCW meeting was tentatively scheduled for May 10, 2019 (*Bear Witness Day*) and it was requested setting aside the entire work day if needed.

Meeting Adjournment

Elder Irene Lindsay closed the meeting with a final prayer. The CCCW meeting adjourned at 4:08 p.m.



**Consultation Committee on Child Welfare
Assembly of First Nations (AFN)
55 Metcalfe, Ottawa, ON (16th Floor Boardroom)
June 17, 2019 (1:00pm –4:00pm)**

RECORD OF DECISIONS

In Attendance:

Mr. Elder Vince Kicknosway
Dr. Cindy Blackstock, Caring Society, Co-Chair
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair
Mr. Martin Orr, Assembly of First Nations
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)
Ms. Joanne Wilkinson, Assistant Deputy Minister, Children & Families Branch (ISC)
Ms. Julie McGregor, Sr. Legal Counsel, AFN
Mr. Bobby Narcisse, Director of Social Services, Nishnawbe Aski Nation (NAN)
Ms. Molly Churchill, Legal Counsel, Nishnawbe Aski Nation (NAN)
Ms. Leila Gillis, Senior Director for Jordan's Principle (ISC)
Mr. John McLean, Children & Families Branch (ISC)
Ms. Pamela Burr, (FNIHB)
Mr. Max Binnie, Attorney General of Canada
Ms. Nathalie Nepton, Director General, Children & Families Branch (ISC)
Ms. Megan Robinson (ISC)
Mr. David Taylor, Legal Counsel, Caring Society
Mr. Brian Smith, Canadian Human Rights Commission
Ms. Jessica Walsh, Canadian Human Rights Commission
Ms. Stephanie Wellman, Assembly of First Nations
Ms. Kara Kennedy, Assembly of First Nations

Via Teleconference:

Ms. Judith Rae, Legal Counsel (COO)

1. Opening Remarks and Introductions

Before officially calling the meeting to order, Elder Vince Kicknosway offered an opening prayer. Co-Chair Thompson welcomed members and ISC observers in attendance to the CCCW meeting, followed by a roundtable of introductions.

2. Review of Agenda (June 17, 2019)

An overview of the agenda was provided. Tabs containing documents corresponding to each agenda item were included in the meeting package. There was a request to hold brief discussions concerning Jordan's Principle help line and on the reimbursement of claims. ISC representatives were reminded of the importance of delivering documents well in advance of the meeting to allow the Consultation Committee ample time for review.

3. Review of Record of Decisions (February 12, 2019 and April 2, 2019)

Minor changes were applied to the February ROD, which can now be finalized. The Chair dispensed with an exhaustive review of the April 2nd ROD. CCCW members were requested to forward editorial comments on the April 2nd ROD to Martin's attention for final approval at the next meeting. Moving forward the CCCW ROD will be shared with the NAC.

4. ISC Updates

Bill C-92: The Bill passed third reading in the Senate last week. Proposed amendments will be debated in the House of Commons through a motion to review the proposed amendments in order to render decisions about what will be adopted and what will be rejected. In the event of the enactment of Bill-92, ISC is open to involvement by the CCCW to convene discussions at the next meeting respective to the structure of the engagement, the need for a technical committee, associated costs etc.

Capital Directive: The Draft Program Directive on capital costs and Quebec agencies was circulated early last week and reflects various issues previously raised at this table including raising the cap to \$2.5M per recipient, per project, and per fiscal year. The Directive also states that capital investments fully related to prevention over that cap are eligible for reimbursement based on actual expenditures. The introduction of the Capital Directive emphasizes that capital expenditures are eligible under the program provided there is clear alignment with the Terms and Conditions and that it contributes towards the achievement of the intended outcome of reducing representation of First Nations children in care, which also sets a list of all minimal requirements for FNCFS capital projects, whereby capital needs must be identified in the agency's multi-year plan, and in the First Nation's Community Infrastructure Plan. The Capital Directive does not address band reps as the document primarily focuses on agencies. ISC will refer to the Recipient Guide for band reps in Ontario to clarify capital investments, which is forthcoming. As it stands, two outstanding hand rep claims awaiting further information remain. ISC anticipates being in a position to move forward within the next few weeks.

A number of amendments and points of clarification on several thematic issues were requested by the table and the following comments arose:

- Insufficient evidence-based outcomes are being adopted by the Department's program, projecting the assumption that outcomes are absolute

- Payments on actuals also apply for intake and assessments but are not included for approval under the Terms and Conditions as Canada is responsible by order for those payments. Similarly, guardianship services have been overlooked considering its innovativeness
- The Directive stipulates that the building must be for the exclusive use of prevention services, which is problematic given the various overlays and the necessity to address the full array of CFS services, or in the event of the enactment of Bill C-92, with First Nations law. Canada was requested to expand on their definition, interpretation and adjudication of the term 'prevention'
- In the absence of clear criteria, set guidelines and threshold, the term "absolute need" was deemed problematic and Canada was requested to consider using "demonstrated need" instead
- The rationale for agencies having to use existing operational budget intended for prevention services and then using it to expand on a capital expenditure for later reimbursement was questioned. Clarification was also sought for how this may forestall the planning process
- Under 'Requirements' on page 7, it must be clearly stipulated that the designated authority resides with the Agency Director delivering services at the frontline
- With respect to suitability of buildings, tailored language around the distinct needs of CFS that have not been factored within a Health authority should be reflected
- Further explanation of the Capital Facilities and Maintenance Program approval process was sought
- The sentence referring to total capital costs must be clarified to specify that it is 'per project' and not per recipient
- Given that agencies will undertake various feasibility studies, further clarification on common available resources related to infrastructure was recommended (*e.g.: school construction*)

Action Items: M. Orr to forward the proposed language on the outcomes to ISC's attention. Providing recommendations are within the scope of the Terms and Conditions, Canada was requested to reflect the above amendments. CCCW members were requested to forward additional comments and/or proposed amendments to Nathalie Nepton's attention by June 28th for integration with feedback from the NAC. CCCW members were also requested to identify recipients of the document to ensure all parties are cognizant that it is subject to modification

Program Directive - Prevention: The Draft Program Directive was shared with the NAC in May. The purpose of the Directive is to provide guidance on the prevention component within the FNCFS Program and to outline the planning and reporting requirements for FNCFS Agencies. In response to a comment, ISC described endeavoring to establish an enhanced streamlining process to avoid the need for cross-referencing other documents and expressed receptivity to recommendations for effective methods to access and coalesce the information.

Action Items: CCCW members were requested to forward comments to Nathalie Neptoe's attention by June 28th. ISC was requested to identify the individual(s) responsible for developing this document to ascertain the expertise within the Department

The table expressed concern in sharing this document due to rudimentary and entry level content that fails to reflect an informed perspective on prevention and lacks fundamental components (*i.e.: individual risk factors not nuanced within the structural considerations*). As experts in the area of prevention, several CCCW members deemed this Directive irrelevant for agencies but applicable to the Department. A recommendation was put forth to consider striking a Working Group to assist the Department with the decision-making around the acceptance or denials under prevention requests, examining the criteria being relied upon to adjudicate prevention complaints and allowing agencies the opportunity to provide input.

Decision Item: The CCCW was in agreement to establish a Working Group (in collaboration with the NAC) comprised of experts in the prerequisite area tasked to develop criteria around effective strategies for assessing prevention requests submitted to the Department

2019-2020 National and Ontario Recipient Guides: Draft of the Recipient Guides were forwarded to the CCCW at the end of March and shared with the NAC in May. Thus far, only comments from COO have been received.

Action Item: CCCW members were requested to forward comments to Nathalie Nepton's attention by June 28th

IFSD Proposal (Next Steps): Canada has received the IFSD proposal and approval for funding has been granted by the ADM as of this morning. Subsequent steps will be to convene discussions at the CCCW table to determine strategies for integrating the TORs, Special Study by COO as well as the NAN Remote Quotient research.

Action Item: ADM Wilkinson will follow up on Dr. Blackstock's request to sit as an observer on the Appeals Committee

5. Choose Life (NAN)

Although the program has been renewed for an additional 3 years, Bobby Narcisse alluded to several challenges, mainly related to the application process and use of templates provided. Re-profiling and carry-over requests are not being responded to in a timely manner. With respect to the remoteness issue, due to limited road access, communities are experiencing challenges in acquiring equipment and larger items. Freight costs are being questioned necessitating communities to disburse via other administrative coffers. Various viable options to enable access to resources are being explored (*e.g.: by performing cost-benefit analyses, getting acquainted with suppliers etc.*)

Action Item: Canada has committed to follow up with the Ontario regions to address some of the issues raised and will report back to this table.

HEALTH BREAK

6. Jordan's Principle Update

FPT Discussion: Leila Gillis expanded on Canada's commitment to hold discussions with provincial jurisdictions to ensure provinces are kept abreast of developments. To date, conference calls with the BC, Ontario, NF and Labrador, Manitoba and NB provinces were held and updated information from the Institute of Governance analysis will be circulated with the aim of establishing a collaborative ongoing forum for information sharing. Initial discussions of recent amendments to provincial policies took place; however, until an in-depth review/analysis of cases has been performed to determine which ones would fall under provincial normative standards, specific details are held in abeyance. Conversations with regional offices are ongoing, and Canada has committed to follow up with those jurisdictions once the analysis is completed.

Action Item: Canada was requested to share copies of the provinces' response letter to Dr. Gideon's correspondence and to provide an answer in the imminent future in order to avoid a contested motion

Jordan's Principle Clinical Case Conferencing Policy and Procedures: The letter addressed to Rob Frater dated June 10th was received. Response letters to the feedback on the concerns raised and the crosswalk of the Caring Society's correspondence were submitted along with the amended Draft Policy. With respect to the consultation with professional associations and colleges, the CCCW requested more specificity on the proposed approach, timeframe and this table's engagement throughout the process. Pending the next version with feedback, Canada indicated a willingness in establishing a sponsored focus group comprised of a broader group of health, social or educational professional representatives and establish a standardized process throughout all the SOPs. While there was agreement in principle, the Caring Society emphasized the importance of validating the documentation/recommendations provided by the assorted health associations, the need for oversight, setting criteria around the parameters of the services being provided and instituting a review mechanism in the event recommendations are called into question.

Reporting Framework: The Reporting Framework is intended to capture primary sources of information that will assist in monitoring Canada's compliance. Comments from the Caring Society that were incorporated in the Jordan's Principle Data Guidebook are currently under review to ensure variables are accurately described.

Action Item: CCCW members were requested to submit feedback on the proposed key indicators to Dr. Gideon's attention by June 28th

ISC 2019/2020 Performance Agreement: Wording by the Caring Society on the performance objectives for Executives was provided and brought forward to the Deputy Minister and ISC senior management table, during which time modifications were suggested to ensure adaptability for Executives across the Department. Currently in draft form, the Performance Agreement is undergoing secretarial review by the ISC's SMC (*Senior Management Committee*). Upon receipt, comments by the SMC will be shared with the CCCW.

Action Item: Dr. Gideon to forward comments to Lorna's attention for distribution once available

ISC Employee Training: An invitation to attend the Expert Advisory Group meeting chaired by Dr. Blackstock and Dr. Gideon was extended to all the parties. An ISC Draft Mandatory Indigenous Cultural Training Policy along with the Baseline Assessment Tool has been developed for all ISC employees and is currently under review by the HR Department. A new section will be added to the Policy as a result of a refinement to the Baseline Assessment Tool as recommended by Dr. Bombay. The Policy has been translated and upon approval of its release, a presentation will be made during the departmental SMC meeting. The Assessment Tool is expected to be unveiled in early September to ensure full participation.

Action Item: Dr. Gideon to revise the questionnaire to reflect LGBTQQIP2SAA terminology

Ontario Region Funding Data: The Jordan's Principle 2018-19 CFS Data Summary was included in the meeting package for information purpose as a follow up to a previous action item. No discussion was warranted.

Service Coordinators Key Messages: Key messages have been fine-tuned to reflect feedback received since the last meeting, along with a draft joint communiqué which was developed and forwarded to agencies.

Action Item: ADM Wilkinson to re-submit the information related to specific agencies putting forward requests for actuals

7. Jordan's Principle 24-hour Help Line

The Caring Society is requesting written assurances of a revised process whereby the operator manning the Jordan's Principle 24-hour help line will be granted approval authority of these processes to avoid deferring the regions until the following business day.

Moreover, a robust system to enable the classification of urgent cases is imperative. Canada committed to provide written acknowledgment and restating it to key focal points.

As a side note, it was revealed that the Appeals Process document has been translated and the scope of work for contractors will be forthcoming and broadly publicized once available.

8. Closing Remarks / Next meeting date

The next CCCW meeting was tentatively scheduled for August 7th and July 16-17 for the next NAC meeting.

Meeting Adjournment

Elder Vince Kicknosway closed the meeting with a final prayer. The CCCW meeting adjourned at 3:40 p.m.



**Consultation Committee on Child Welfare
Assembly of First Nations (AFN)
55 Metcalfe, Ottawa, ON (16th Floor Boardroom)
September 9, 2019 (1:00pm –3:30pm)**

DRAFT RECORD OF DECISIONS

In Attendance:

Mr. Elder Thomas Louttit
Dr. Cindy Blackstock, Caring Society, Co-Chair
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair
Mr. Martin Orr, Assembly of First Nations
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)
Ms. Joanne Wilkinson, Assistant Deputy Minister, Children & Families Branch (ISC)
Ms. Lisa Legault (ISC)
Ms. Georgia Livadiotakis, Policy Advisor (ISC)
Mr. Rob Frater, Q.C., Chief General Counsel, Department of Justice
Mr. Bobby Narcisse, Director of Social Services, Nishnawbe Aski Nation (NAN)
Ms. Molly Churchill, Legal Counsel, Nishnawbe Aski Nation (NAN)
Ms. Maggie Wente, Counsel for Chiefs of Ontario
Mr. David Taylor, Legal Counsel, Caring Society
Ms. Sarah Clarke, Legal Counsel, Caring Society
Mr. Brian Smith, Canadian Human Rights Commission
Ms. Jessica Walsh, Canadian Human Rights Commission
Ms. Stephanie Wellman, Assembly of First Nations
Mr. Stuart Wuttke, Legal Counsel, Assembly of First Nations
Ms. Kara Kennedy, Assembly of First Nations
Ms. Lorna Martin, Assembly of First Nations

Via Teleconference:

Ms. Ruby Miller, Director of Social Services (COO)

1. Opening Remarks and Introductions

Prior to officially calling the meeting to order, Elder Thomas Louttit offered an opening prayer. Co-Chair Thompson welcomed members and ISC observers in attendance to the CCCW meeting.

2. Review of Agenda (September 9, 2019)

An overview of the agenda was provided. Tabs containing documents corresponding to each agenda item were included in the meeting package. Following ISC updates, it was requested and agreed to discuss prevention services vs. least disruptive measures, obtain an update on IFSD, and deliberate on the compensation order and CWJI.

3. Review of Record of Decisions (April 2, 2019 and June 17, 2019)

The April 2nd ROD are now finalized. The Chair dispensed with the review of the June 17th ROD. CCCW members were requested to forward editorial comments on the ROD to Martin's attention for final approval at the next meeting.

4. ISC Updates

Multi-Year Plans: As a new element within the Funding Agreement template, the draft Program Directive has introduced a multi-year plan. Substituting the 5-year business plan, the multi-year plan is intended to assist FNCFS agencies and communities to connect in the delivery of prevention services, support them in developing a planned approach to achieving long-term outcomes and ensure essential elements included in the Directive are covered. Agencies who have already created multi-year plans are under no obligation to change their existing plans.

In consideration of IFSD's ongoing work to produce evidence-based and measurable outcomes, the CCCW deemed this initiative to be premature. Consequently, ISC was asked to reconsider the timeframe until such time in order to allow communities to work on the integration of these outcomes, transition from the existing reporting requirements and develop a comprehensive plan. In addition, ISC was requested to consider developing an annual framework indicating how outcomes will be measured, as well as explicitly convey these are not evidence-based and furthermore, funding cannot be determined on that basis.

2019-2020 Recipient Guide: Terminology in the Draft Recipient Guide was realigned whereby most substantive changes pertained to the transfer of information, providing additional information related to the Terms and Conditions, and provide clarity on advances, claims submission for advances as opposed to retroactive claims.

Comments by CCCW members indicated the need for the Recipient Guide to reflect a wider scope of what is considered 'prevention' and to include the definition delineated by the Tribunal in 2016.

Action Item: ADM Wilkinson to forward the Track Changes version document by the end of the following week and CCCW members were petitioned to forward additional comments to her attention by September 20th

CHRT Claims Tracking: Amendments to the Claims Form were applied to include information not available in the weekly report. ISC will consider developing a monthly report based on the new form and is receptive to suggestions for improvements.

IFSD: ISC confirmed work is underway and the data request will be fulfilled next week.

CWJI in relation to C-92: Despite its limitations, CWJI is the vehicle by which work associated with C-92 would be funded, and ISC is exploring other federal sources of funds that can also be employed to support additional communities.

Action Items: ADM Wilkinson was requested to forward exact outstanding figures of what has not been committed from the \$80M, provide timeframes and further expand on the funding details for ongoing work. In addition, she was requested to inform the CCCW via email prior to the next meeting whether reimbursement to the Saskatoon Tribal Council will be made

Compensation Order: Canada was urged to reflect on the following matters:

- Examine each class of victims and identify available data sources to aid in the identification of those victims, data gaps along with the reliability of that data (e.g.: maintenance reports)
- Map out existing data on retroactive cases
- Investigate cost issues related to registration of children and inquire into the status of the class action
- Provide assurances that any legal fees related to forming trusts for children in agencies' care will be covered and approved
- Canada to convey its position on the section of the Tribunal order urging that the compensation order not result in a reduction of social assistance benefits
- Expediently facilitate a conference call between the CCCW and provincial and territorial representatives to discuss the location of the data and pinpoint available information on families/children in care covered under Jordan's Principle during the intervening years when the Order was not in effect
- Provide assurances that through the CCCW, advice received from former youth in care and First Nation youth on the distribution of these funds will be compensated (specifically the National Youth in Care Network A7G)
- Identify mechanisms to accommodate families without bank accounts
- Canada was reminded of its obligation to exert the Reallocation Order by the Tribunal and was requested to provide assurances that none of the funds will be removed from programs earmarked for FN children and families
- Notwithstanding that the Order was initiated in 2006, children that have been denied services prior to that date and entered into care on the day should become eligible for compensation

Action Items: ISC to follow up on the above requests and report back to the CCCW. In addition, Dr. Gideon was requested to forward copies of communications broadcasted to government personnel related to the Order released Friday

5. Caring Society (Updates)

In response to Dr. Blackstock's inquiry to participate as an observer on the CFS Appeals Committee, ADM Wilkinson conveyed that the position of the Department is this is not currently feasible due to the fact that decisions are made by public servants in accordance with the Terms and Conditions. The official response will be re-submitted to the CCCW.

Jordan's Principle Concerns Document: A couple of transversal issues with CFS and Jordan's Principle arose. Firstly, the ostensible request from the Department for additional professional endorsements subsequent to a letter requesting service submitted by a licensed and certified entity. Effectively this amounts to additional administrative procedures resulting in decisions overridden by a third party that has not had the benefit of examining a child may not even be fully competent in that domain. Consequently, further rigor is being sought when a request is being submitted for additional professional notices.

The other issue relates to the lapsing of timeframes by the Department for addressing urgent Jordan's Principle cases. On that point, Dr. Gideon confirmed that while the escalated volume and demand has become a barrier, consequences for non-compliance with timeframes are in place and the Department is continuously striving to meet those deadlines.

C-92 Regulations: To date, no discussions on governance configuration has taken place and there's been no pre-conceived notion on the CCCW and the NAC's role in the formulation of the regulation. ISC is open to recommendations and is currently working with other representative organizations to determine the optimal way to frame the governance structure to ensure issues are appropriately dealt with at the regional level.

CHRT Funding Claims: NAN Director of Social Services Bobby Narcisse alluded to several ongoing frustrations and challenges experienced at the community level, mainly related to the interpretation of the CHRT Order by the Ontario regions, band rep workplans, accessing band rep funding, reimbursements, the definition of children at risk and prevention etc.

6. Jordan's Principle Update

Implementing CHRT Rulings: A step-by-step approach on actions to be undertaken by ISC related to the CHRT orders was presented on August 29th at the JPOC meeting.

Letter to CFS agencies: The purpose of the is to specify to CFS agencies the opportunity to access Jordan's Principle. As suggested, language around the Compensation Order and on Bill S-3 will be reflected.

Action Item: CCCW members were requested to submit feedback to Dr. Gideon's attention two weeks following receipt of the document

Clinical Case Conferencing: The last version of the Policy dated April 2nd incorporated feedback received by the Caring Society. With AFN's assistance, a process to consult more associations was streamlined and a proposal to undertake the engagement process was tendered. Through continuous collaborative work with AFN, the next steps will consist of scheduling time and extending invitations to the 21 professional associations identified. A separate meeting in the areas of education and health social funds will be held to gather feedback on the Clinical Case Conferencing Policy and Procedures and obtain input on the professional scope of practice. In addition, a short reference document related to the most commonly received requests has been developed for focal points. A recommendation was put forth to include an override statement indicating that in the event professionals within the community are unavailable, in order to approve a request for aid/services, the Department is prepared to cover travel expenses in order that children may receive assessments.

Service Coordinator Fund: The amount of available funding in regional offices was increased from \$23M to \$40M. Several options for the increased levels were presented to the JPAT. The decision was made to pursue with the 3rd option, which places greater emphasis on the number of eligible children and less on the number of requests. Once all the data has been compiled and analyzed, the objective will be to focus effort towards refining the formula.

Staff Training: The Expert Advisory Committee on policy lens training is scheduled to meet at the end of the month. An update was forwarded to the members on July 25th, during which time the survey was condensed and revamped to include comments from Dr. Bombay and the HR Communication Department, and focus groups were conducted during the summer to seek feedback on the survey questions. Results of this exercise along with the draft mandatory training policy were presented last week at the Sr. management and departmental level with ADMs and deputies. Also shared was a draft 'Children Policy Lens' document based on safeguarding the best interest of the child. Learning materials are being developed. To ensure full compliance, Dr. Gideon will be collaborating with the HR Department to develop a tracking mechanism around the completion of the training.

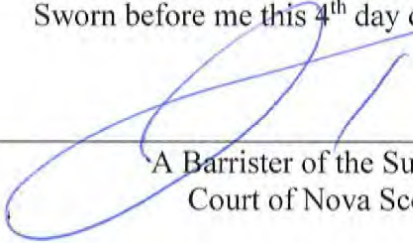
7. Closing Remarks / Next meeting date

The next CCCW meeting was tentatively scheduled for November 8th and October 22-23 dates were slated for the next NAC meeting.

Meeting Adjournment

Elder Thomas Louttit closed the meeting with a final prayer. The CCCW meeting adjourned at 3:20 p.m.

This is **Exhibit "9"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia



[Home](#) > [Indigenous Services Canada](#)

Government of Canada moving forward with departmental changes needed to renew the relationship with Indigenous peoples

From: **Indigenous Services Canada**

News Release

December 4, 2017 Ottawa, ON Government of Canada

As part of the journey towards Reconciliation, the Government of Canada has taken an important step to renew the relationship with Indigenous peoples, based on the recognition of rights, respect, co-operation and partnership, by announcing a profound shift in the way the Government delivers services and advances self-determination and self-government of Indigenous peoples.

The Government of Canada is proud to announce the creation of the Department of Indigenous Services Canada (DISC). At the same time, under the Minister of Crown-Indigenous Relations and Northern Affairs, consultations are continuing on the final form that both departments will take, including how best to increase the government's capacity to function on a distinctions basis, ensure we implement the spirit and intent of existing and future agreements with Indigenous peoples, and identify those services across the Government of Canada that are best delivered by the Department of Indigenous Services Canada.

Further, the Honourable Jane Philpott, Canada's first Minister of Indigenous Services, will lead DISC's efforts to start to bring a holistic approach to delivering the social, healthcare, and infrastructure services essential to healthy children, individuals, families and communities. The First Nations and Inuit Health Branch (FNIHB) has been formally transferred from Health Canada to the new Department of Indigenous

Services Canada.

The Honourable Carolyn Bennett, as Canada's first Minister of Crown-Indigenous Relations and Northern Affairs, will lead her department's efforts to accelerate the work already begun to renew the nation-to-nation, Inuit-Crown, and government-to-government relationship between Canada and Indigenous peoples. The Prime Minister has also tasked her with modernizing institutional structures and governance so that First Nations, Inuit, and Métis Peoples can build capacity that supports implementation of their vision of self-determination.

Quotes

"Today marks an important milestone in Canada's journey towards reconciliation and the dissolution of Indigenous and Northern Affairs. I am continuing to work with First Nations, Inuit and Métis partners on the final form of the two new departments. We are tearing down the outdated and paternalistic structure of old designed to enforce the Indian Act and replacing it with new departments that are distinctions-based and rooted in the recognition of rights, respect, cooperation and partnership."

The Honourable Carolyn Bennett, M.D., P.C., M.P.
Minister of Crown-Indigenous Relations and Northern Affairs

"The creation of the Department of Indigenous Services Canada is an important development in our renewed relationship with Indigenous peoples. These structural changes will allow our government to work more effectively with Indigenous partners to provide services that improve people's day-to-day quality of life. Our work will be based on recognition and respect for the right to self-determination."

The Honourable Jane Philpott, M.D., P.C., M.P.
Minister of Indigenous Services

Quick Facts

- One fundamental measure of success will be that appropriate programs and services are increasingly delivered, not by the Government of Canada but instead by Indigenous peoples as they move to self-government.
- All funding and contractual arrangements with both departments remain active. The delivery of services will continue as usual.

Associated Links

- [Indigenous Services Canada](#)

Contacts

Sabrina Williams

Press Secretary

Office of the Honourable Carolyn Bennett

613-697-8316

Andrew MacKendrick

Press Secretary

Office of the Honourable Jane Philpott

819-956-5372

Media Relations

Department of Indigenous Services Canada and

Indigenous and Northern Affairs Canada

819-953-1160

Search for related information by keyword: [SO Society and Culture](#) | [Federal departments](#) | [Partnerships](#) | [Indigenous Services Canada](#) | [Canada](#) | [Culture](#),

[history and sport](#) | [Indigenous peoples and cultures](#) | [Aboriginal peoples](#) | [general public](#) | [media](#) | [news releases](#)

Date modified:

2017-12-05

This is **Exhibit "10"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.

A Barrister of the Supreme
Court of Nova Scotia

ORLA M. TAYLOR
Barrister of the Supreme
Court of Nova Scotia



Government
of Canada

Gouvernement
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[Home](#) > [Crown-Indigenous Relations and Northern Affairs Canada](#) > [Reconciliation](#)

New permanent bilateral mechanisms

The Government of Canada has established permanent bilateral mechanisms with First Nations, Inuit and Métis Nation leaders to identify joint priorities, co-develop policy and monitor progress.

These new mechanisms were announced in December 2016, as part of Prime Minister Justin Trudeau's commitment to [advancing reconciliation with Indigenous peoples](#).

Budget 2017 invested \$13.7 million over two years to support these new permanent bilateral mechanisms. Budget 2018 is investing \$74.9 million over five years.

Government of Canada and First Nations bilateral mechanism



- In June 2017, the Prime Minister and the National Chief of the Assembly of First Nations signed a Memorandum of Understanding on shared priorities and discussed next steps in the permanent bilateral mechanism.
 - The Prime Minister and the National Chief of the Assembly of First Nations sign the Memorandum of Understanding on shared priorities
- In November 2017, the Prime Minister issued a statement after meeting with Modern Treaty and Self-Governing First Nations.
 - Statement by the Prime Minister on meeting with Modern Treaty and Self-Governing First Nations

Inuit-Crown Partnership Committee



- In February 2017, the Prime Minister and the President of Inuit Tapiriit Kanatami met and signed a declaration announcing the Inuit-Crown Partnership Committee.
 - Prime Minister of Canada and President of Inuit Tapiriit Kanatami announce the Inuit-Crown Partnership Committee

- In May 2017, the Government of Canada and Inuit elected representatives met to pursue their shared commitment to renew the Inuit-Crown relationship.
 - Inuit-Crown Partnership Committee advances agenda
- In September 2017, Inuit leaders and federal cabinet ministers met to further pursue outcomes for Inuit as part of the Inuit-Crown Partnership Committee.
 - Inuit leaders from across Inuit Nunangat and five federal cabinet ministers continued work of Inuit-Crown Partnership Committee
- In March 2018, the Prime Minister participated in the Inuit-Crown Partnership Committee meeting to review progress made since the committee was formed.
 - Inuit-Crown Partnership Committee makes progress on shared priorities
- In June 2018, Inuit leaders and federal cabinet ministers met to advance the second year priorities of the Inuit-Crown Partnership Committee by discussing concrete actions to support the unique social, cultural, economic and environmental realities of Inuit in Canada.
 - Advancing the second year priorities of the Inuit-Crown Partnership Committee
- In April, 2019, the Inuit-Crown Partnership Committee released the National Inuit Housing Strategy and set priorities for third year.
 - Inuit-Crown Partnership Committee releases national Inuit housing strategy and continues progress on shared priorities
 - Inuit Nunangat Housing Strategy

Government of Canada and Métis bilateral mechanism

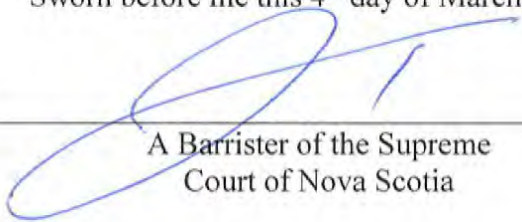
- In April 2017, the Prime Minister and the President of the Métis National Council and its governing members signed the Canada-Métis Nation Accord during the first Métis Nation-Crown Summit.
 - The Prime Minister of Canada and President of the Métis National Council



welcome the signing of the Canada-Métis Nation Accord

- In September 2017, the President of the Métis National Council and its governing members and federal cabinet ministers issued a joint communiqué highlighting outcomes from their first ministerial-level meeting.
 - Communiqué: Canada-Métis Nation leaders meeting
- In June 2018, the Prime Minister met with the President of the Métis National Council and its governing members to review progress made during the first year of the Canada-Métis Nation Accord.
 - Canada and the Métis Nation move forward on Canada-Métis Nation Accord
- In July 2018, the Minister of Crown-Indigenous Relations and the President and Governing Members of the Métis National Council signed the co-developed Métis Nation Housing Sub-Accord, further advancing the shared priorities identified in the Canada-Métis Nation Accord.
 - Signing of the Métis Nation Housing Sub-Accord

This is **Exhibit "11"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARTON
A Barrister of the Supreme
Court of Nova Scotia

Minister of Indigenous Services Mandate Letter

December 13, 2019

Office of the
Prime Minister



Cabinet du
Premier ministre

Ottawa, Canada K1A 0A2

Dear Mr. Miller:

Thank you for agreeing to serve Canadians as Minister of Indigenous Services.

On Election Day, Canadians chose to continue moving forward. From coast to coast to coast, people chose to invest in their families and communities, create good middle class jobs and fight climate change while keeping our economy strong and growing. Canadians sent the message that they want us to work together to make progress on the issues that matter most, from making their lives more affordable and strengthening the healthcare system, to protecting the environment, keeping our communities safe and moving forward on reconciliation with Indigenous Peoples. People expect Parliamentarians to work together to deliver these results, and that's exactly what this team will do.

It is more important than ever for Canadians to unite and build a stronger, more inclusive and more resilient country. The Government of Canada is the central institution to promote that unity of purpose and, as a Minister in that Government, you have a personal duty and responsibility to fulfill that objective.

That starts with a commitment to govern in a positive, open and collaborative way. Our platform, *Forward: A Real Plan for the Middle Class*, is the starting point for our Government. I expect us to work with Parliament to deliver on our commitments. Other issues and ideas will arise or will come from Canadians, Parliament, stakeholders and the public service. It is my expectation that you will engage constructively and thoughtfully and add priorities to the Government's agenda when appropriate. Where legislation is required, you will need to work with the Leader of the Government in the House of Commons and the Cabinet Committee on Operations to prioritize within the minority Parliament.

We will continue to deliver real results and effective government to Canadians. This includes: tracking and publicly reporting on the progress of our commitments; assessing the effectiveness of our work; aligning our resources with priorities; and adapting to events as they unfold, in order to get the results Canadians rightly demand of us.

Many of our most important commitments require partnership with provincial, territorial and municipal governments and Indigenous partners, communities and governments. Even where disagreements may occur, we will remember that our mandate comes from citizens who are served by all orders of government and it is in everyone's interest that we work together to find common ground. The Deputy Prime Minister and Minister of Intergovernmental Affairs is the Government-wide lead on all relations with the provinces and territories.

There remains no more important relationship to me and to Canada than the one with Indigenous Peoples. We made significant progress in our last mandate on supporting self-determination, improving service delivery and advancing reconciliation. I am directing every single Minister to determine what they can do

in their specific portfolio to accelerate and build on the progress we have made with First Nations, Inuit and Métis Peoples.

I also expect us to continue to raise the bar on openness, effectiveness and transparency in government. This means a government that is open by default. It means better digital capacity and services for Canadians. It means a strong and resilient public service. It also means humility and continuing to acknowledge mistakes when we make them. Canadians do not expect us to be perfect; they expect us to be diligent, honest, open and sincere in our efforts to serve the public interest.

As Minister, you are accountable for your style of leadership and your ability to work constructively in Parliament. I expect that you will collaborate closely with your Cabinet and Caucus colleagues. You will also meaningfully engage with the Government Caucus and Opposition Members of Parliament, the increasingly non-partisan Senate, and Parliamentary Committees.

It is also your responsibility to substantively engage with Canadians, civil society and stakeholders, including businesses of all sizes, organized labour, the broader public sector and the not-for-profit and charitable sectors. You must be proactive in ensuring that a broad array of voices provides you with advice, in both official languages, from every region of the country.

We are committed to evidence-based decision-making that takes into consideration the impacts of policies on all Canadians and fully defends the *Canadian Charter of Rights and Freedoms*. You will apply Gender-based Analysis Plus (GBA+) in the decisions that you make.

Canada's media and your engagement with them in a professional and timely manner are essential. The Parliamentary Press Gallery, indeed all journalists in Canada and abroad, ask necessary questions and contribute in an important way to the democratic process.

You will do your part to continue our Government's commitment to transparent, merit-based appointments, to help ensure that people of all gender identities, Indigenous Peoples, racialized people, persons with disabilities and minority groups are reflected in positions of leadership.

As Minister of Indigenous Services, you will work to ensure a consistent, high-quality and distinctions-based approach to the delivery of services to Indigenous Peoples. In parallel, you will work with the Minister of Crown-Indigenous Relations on capacity building to bring control of and jurisdiction for service delivery back to Indigenous communities.

I will expect you to work with your colleagues and through established legislative, regulatory and Cabinet processes to deliver on your top priorities. In particular, you will:

- Fulfill our commitment to eliminate all long-term drinking water advisories on reserve by Spring 2021 and continue to take steps to ensure water stays safe to drink.
- Continue to fully implement Jordan's Principle to ensure that First Nations children have access to the health, social and educational supports and services that they need, when and where they need them.
- Move quickly on fair and equitable compensation to First Nations persons who were harmed by the discriminatory underfunding of child and family services on reserve.
- Co-develop distinctions-based Indigenous health legislation, backed with the investments needed to deliver high-quality health care for all Indigenous Peoples.

- Continue to work with First Nations communities to ensure First Nations control over the development and delivery of services.
- Supported by the Minister of Infrastructure and Communities, work to co-develop and invest in distinctions-based community infrastructure plans, and move forward with addressing critical needs including housing, all-weather roads, high-speed internet, health facilities, treatment centres and schools in First Nations, Inuit and Métis communities by 2030. These plans should also include new investments to support the operation and maintenance of this infrastructure.
- Working with the provinces and territories, fully implement *An Act respecting First Nations, Inuit and Métis children, youth and families*, and ensure long-term predictable and sufficient funding to support the implementation of the Act.
- Work with the Minister of Infrastructure and Communities, the Minister of Natural Resources and the Minister of Northern Affairs to support the transition of Indigenous communities from reliance on diesel-fueled power to clean, renewable and reliable energy by 2030.
- Ensure that First Nations, Inuit and Métis students have the support they need to access and succeed at post-secondary education.
- Expand outreach efforts to Indigenous communities to make sure they can access the full range of federal social benefits including the Canada Child Benefit. This includes the continued work on pilot outreach activities for urban Indigenous communities.
- With the support of the Minister of Finance, building on the success of the 10-Year Grant, work with the Minister of Crown-Indigenous Relations to establish a new fiscal relationship with Indigenous Peoples that moves toward: sufficient, predictable and sustained funding for communities; and a renewed economic and fiscal relationship that ensures nations have the revenue generation and fiscal capacity to govern effectively and to provide programs and services to those for whom they are responsible.
- Work with Indigenous communities on distinctions-based housing strategies.

These priorities draw heavily from our election platform commitments. As mentioned, you are encouraged to seek opportunities to work across Parliament in the fulfillment of these commitments and to identify additional priorities.

I expect you to work closely with your Deputy Minister and their senior officials to ensure that the ongoing work of your department is undertaken in a professional manner and that decisions are made in the public interest. Your Deputy Minister will brief you on the many daily decisions necessary to ensure the achievement of your priorities, the effective running of the government and better services for Canadians. It is my expectation that you will apply our values and principles to these decisions so that they are dealt with in a timely and responsible manner and in a way that is consistent with the overall direction of our Government.

Our ability, as a government, to implement our priorities depends on consideration of the professional, non-partisan advice of public servants. Each and every time a government employee comes to work, they do so in service to Canada, with a goal of improving our country and the lives of all Canadians. I expect you to establish a collaborative working relationship with your Deputy Minister, whose role, and the role of public servants under their direction, is to support you in the performance of your responsibilities.

We have committed to an open, honest government that is accountable to Canadians, lives up to the highest ethical standards and applies the utmost care and prudence in the handling of public funds. I expect you to embody these values in your work and observe the highest ethical standards in everything you do. I want Canadians to look on their own government with pride and trust.

As Minister, you must ensure that you are aware of and fully compliant with the *Conflict of Interest Act* and Treasury Board policies and guidelines. You will be provided with a copy of *Open and Accountable Government* to assist you as you undertake your responsibilities. I ask that you carefully read it, including elements that have been added to strengthen it, and ensure that your staff does so as well. I expect that in staffing your offices you will hire people who reflect the diversity of Canada, and that you will uphold principles of gender equality, disability equality, pay equity and inclusion.

Give particular attention to the Ethical Guidelines set out in Annex A of that document, which apply to you and your staff. As noted in the Guidelines, you must uphold the highest standards of honesty and impartiality, and both the performance of your official duties and the arrangement of your private affairs should bear the closest public scrutiny. This is an obligation that is not fully discharged by simply acting within the law.

I will note that you are responsible for ensuring that your Minister's Office meets the highest standards of professionalism and that it is a safe, respectful, rewarding and welcoming place for your staff to work.

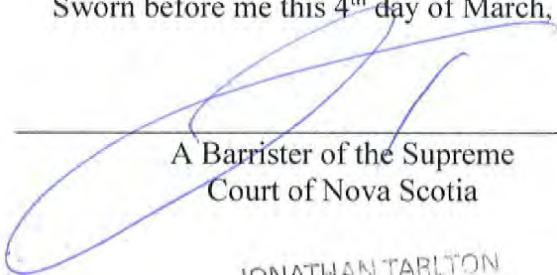
I know I can count on you to fulfill the important responsibilities entrusted in you. It is incumbent on you to turn to me and the Deputy Prime Minister early and often to support you in your role as Minister.

Sincerely,

A handwritten signature in black ink, appearing to be 'Justin Trudeau', written over a horizontal line.

Rt. Hon. Justin Trudeau, P.C., M.P.
Prime Minister of Canada

This is **Exhibit "12"** referred to in the
Affidavit of **LORRI WARNER**
Sworn before me this 4th day of March, 2020.



A Barrister of the Supreme
Court of Nova Scotia

JONATHAN TARLTON
A Barrister of the Supreme
Court of Nova Scotia



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Bill C-92: An Act respecting First Nations, Inuit and Métis children, youth and families receives Royal Assent

From: [Indigenous Services Canada](#)

News release

Co-developed with Indigenous, provincial, and territorial partners, Bill C-92, *An Act respecting First Nations, Inuit and Métis children, youth and families* will finally enshrine into law what Indigenous peoples across Canada have asked of governments for decades: to affirm and recognize their jurisdiction over child and family services

June, 21, 2019 — Ottawa, Unceded Traditional Algonquin Territory, Ontario —
Indigenous Services Canada

Reducing the number of Indigenous children in care continues to be one of the Government of Canada's most important priorities.

On February 28, 2019, the Government introduced Bill C-92, *An Act respecting First Nations, Inuit and Métis children, youth and families* (the Act). This legislation was co-developed with Indigenous, provincial, and territorial partners with the goal of keeping Indigenous children and youth connected to their families, communities, and culture.

Today, this crucial piece of legislation for Indigenous children, youth and families has received Royal Assent.

It recognizes a simple truth: one size does not fit all when it comes to Indigenous child and family services. Under Bill C-92, Indigenous communities and groups will be free to

develop policies and laws based on their particular histories, cultures, and circumstances. Free to move at their own pace to implement and enforce these policies and laws.

Through the Act, national principles such as the best interests of the child, cultural continuity, and substantive equality have been established to help guide the provision of Indigenous child and family services. The Act also enables Indigenous groups and communities to transition toward exercising partial or full jurisdiction over child and family services at a pace that they choose.

It is also consistent with the Government of Canada's commitments to implementing the *United Nations Declaration on the Rights of Indigenous Peoples*, the Truth and Reconciliation Commission of Canada's *Calls to Action*, and the ratification of the *United Nations Convention on the Rights of the Child*.

This legislation is the culmination of extensive engagements with partners, which began with the January 2018 Emergency Meeting on Indigenous Child and Family Services, at which the federal government committed to six points of action to address the over-representation of Indigenous children and youth in care, including exploring the co-development of legislation on Indigenous child and family services. This Act is also a result of the advocacy and leadership of Chiefs and elders, parents and grandparents, youth and community members from across Canada.

Just as the Act was co-developed with First Nations, Inuit and Métis, so will be its implementation. To ensure a smooth transition and implementation of the Act, Indigenous Services Canada and its partners are exploring the creation of distinctions-based transition governance structures with representation from Indigenous partners, Provinces and Territories.

The adoption of Bill C-92 represents a new chapter in the history of Canada and its relationship with Indigenous children, youth and families. It is designed to improve the health and well-being of generations of Indigenous children and youth to come.

Quotes

"Today marks a great step forward in our reconciliation with First Nations, Inuit and Métis people. Today we take action to put an end to an ongoing humanitarian crisis. Every day, Indigenous children in this country are separated from their families, communities, languages, and cultures. An entire generation of Indigenous families are counting on us to get this right. We must not disappoint them."

The Honourable Seamus O'Regan, P.C., M.P.
Minister of Indigenous Services

Quick facts

- This historic Bill affirms the jurisdiction of all Indigenous Peoples with regards to child and family services.
- According to Census 2016, Indigenous children represent 52.2% of children in foster care in private homes in Canada, despite accounting for only 7.7% of the overall population of children under 15.
- The first five Calls to Action by the Truth and Reconciliation Commission of Canada relate to child welfare, including Call to Action #4 which calls "upon the federal government to enact Aboriginal child-welfare legislation".
- Budget 2016 included new funding of \$634.8 million over five years, and Budget 2018 included new funding of \$1.4 billion over six years in the First Nations Child and Family Services Program to ensure the safety, security and well-being of Indigenous children.
- In 2018-2019, the total First Nations Child and Family Services Program funding under Indigenous Services Canada was more than \$1.1 billion.

Related products

- [Backgrounder: An Act respecting First Nations, Inuit and Métis children, youth and families has received Royal Assent](#)

Associated links

- [Government of Canada, Assembly of First Nations, Inuit Tapiriit Kanatami, Métis National Council celebrate the introduction of Bill C-92](#)
- [Reducing the number of Indigenous Children in care](#)
- [Support for Child and Family Services Co-Developed Legislation](#)
- [A report on children and families together: An Emergency Meeting on Indigenous child and family services](#)
- [Engagement on potential legislation co-created with Indigenous communities on child and family services](#)
- [Truth and Reconciliation Commission of Canada: Calls to Action](#)

Contacts

For more information, media may contact:

Kevin Deagle
Press Secretary
Office of the Honourable Seamus O'Regan
Minister of Indigenous Services
873-354-0987

Media Relations
Indigenous Services Canada
Indigenous 819-953-1160
SAC.media.ISC@canada.ca