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CANADA

**CHAPTER 4, PROGRAMS FOR FIRST NATIONS ON
RESERVES, OF THE 2011 STATUS REPORT OF
THE AUDITOR GENERAL OF CANADA**

**Report of the Standing Committee on
Public Accounts**

**David Christopherson, MP
Chair**

FEBRUARY 2012

41st PARLIAMENT, 1st SESSION



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THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

has the honour to present its

SECOND REPORT

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 4, Programs for First Nations on Reserves, of the 2011 Report of the Auditor General of Canada and has agreed to report the following:

INTRODUCTION

The federal government funds and supports many programs and services for First Nations reserves that are similar to the services provided by provinces, territories and municipalities. These programs range from education and health services to land management, economic development and housing. First Nations living on reserves face long-standing challenges, such as ill health, insufficient and unsafe housing, high unemployment, polluted water supplies, inadequate education, poverty and family breakdown.

The former Auditor General, Sheila Fraser, made Aboriginal issues one of her areas of focus, and the Office of the Auditor General (OAG) conducted a number of audits in this area during her tenure. In order to assess the government's progress in implementing its recommendations, the OAG released a follow-up audit in its *2011 Status Report* on programs for First Nations on reserves.

The Standing Committee on Public Accounts (the Committee) held two hearings on this audit. The first hearing took place on October 19, 2011, and the Committee heard from a number of witnesses: John Wiersema, Interim Auditor General, Frank Barrett, Principal, and Ronnie Campbell, Assistant Auditor General, all from the OAG; Michael Wernick, Deputy Minister, Aboriginal Affairs and Northern Development Canada (AANDC); Douglas Stewart, Vice-President, Policy and Planning, Canada Mortgage and Housing Corporation (CMHC); and Shelagh Jane Woods, Director General, Primary Health Care and Public Health Directorate, First Nations and Inuit Health Branch, Health Canada. The Committee held a second hearing on October 24, 2011 with the same witnesses.

STRUCTURAL IMPEDIMENTS

In the preface to its audit, the OAG noted that conditions have generally not improved for First Nations on reserves in many areas, and that the problems facing First Nations go deeper than the existing programs' lack of efficiency and effectiveness. The OAG identified four structural impediments that limit the delivery of public services to First Nations reserves: lack of clarity about service levels, lack of a legislative base, lack of an

appropriate funding mechanism and lack of organizations to support local service delivery.¹

According to the OAG, the federal government has not clearly defined the type and level of services it supports, making it unclear whether the government is committed to providing services on reserves of the same range and quality as those provided to other communities across Canada. The federal government needs to specify the level of services on reserves required for comparability to the services provided by provinces and territories, as well as clarify its roles and responsibilities and measures for determining whether programs are achieving their desired outcomes.

There is no legislation supporting federal programs in certain areas, such as education, health and drinking water, which can lead to ambiguity and confusion in the federal government's responsibilities and accountabilities. A legislative base for programs could specify roles and responsibilities, eligibility criteria and funding levels. It would help to define the services delivered under federal programs and clarify the federal government's funding responsibilities

The federal government primarily uses contribution agreements to fund the delivery of services on First Nations reserves. However, the use of yearly contribution agreements can lead to delays in funding, uncertainty about funding levels and a lack of clarity about who is accountable for achieving improved outcomes or specific levels of services. Also, contribution agreements involve a significant reporting burden, which is especially problematic for small First Nations with limited administrative capacity.

Many First Nations communities are small and isolated, and thereby lack organizations, such as school boards, health services boards and social service organizations, to support service delivery. These First Nations are often hampered by a lack of the expertise needed to meet the administrative requirements for delivering programs on their reserves. Regional service organizations can supply needed expertise,

¹ Auditor General of Canada, *2011 Status Report*, "Chapter 4, Programs for First Nations on Reserves" (Ottawa, 2011), preface.

facilitate career advancement, and develop a means of efficient and effective delivery of services.

The OAG stated that addressing these structural impediments would involve a fundamental change in the federal government's approach to programs for First Nations. The Deputy Minister of AANDC, Michael Wernick, told the Committee that he agreed, without reservation, with the OAG's diagnosis of the problem, and said that "The six-page preface is the best road map Parliament could ask for."²

The Interim Auditor General, John Wiersema, explained that the government needs to address the four structural impediments together. He said, "It's all four elements; it's the legislative base, service levels, outcomes the government's trying to achieve, the funding mechanism, the capacity of the first nations themselves to deliver it, and the service standards. All of those have to work together in order to advance the lot of first nations on reserves."³

The Deputy Minister of AANDC agreed, and said, "One of the really important parts of the Auditor General's report is that it shows there are four missing conditions. The combination of those is what's likely to result in an enduring change. You could pick any one of them, such as legislation without funding, or funding without legislation, and so on. They would have some results, but they would probably, in our view, be temporary. If you want enduring, structural changes, it's the combination of these tools."⁴ He also said, "With all due respect, I want to send the message that, if Parliament demands better results, it has to provide us with better tools."⁵

The Deputy Minister told the Committee that his department is making some progress with respect to the structural impediments. It has reached a number of tripartite agreements with provinces and First Nations. While the Deputy Minister acknowledged

² House of Commons, Standing Committee on Public Accounts, *Evidence*, 1st Session, 41st Parliament, October 19, 2011, Meeting 8, 1540.

³ House of Commons, Standing Committee on Public Accounts, *Evidence*, 1st Session, 41st Parliament, October 42, 2011, Meeting 9, 1650.

⁴ Meeting 8, 1550.

⁵ Meeting 8, 1625.

that the department is overly reliant on contribution agreements, it is now making greater use of multi-year contribution agreements. Also, the department is working on legislation in the areas of education, water standards, new approaches to financing infrastructure, procedures for free and fair elections, and land claim settlements and treaties.

Given the importance of addressing the structural impediments to making meaningful, lasting improvements in the overall conditions of First Nations on reserves, the Committee believes that AANDC, in consultation with other relevant departments, needs to develop a coherent roadmap of the steps it will take in this regard. Such a roadmap would help AANDC and other departments plan their priorities, structure their activities and allow interested parties, such as this Committee, to hold the government to account for making progress in addressing the structural impediments. The Committee recommends:

RECOMMENDATION 1

That, by 31 May 2012, Aboriginal Affairs and Northern Development Canada, Canada Mortgage and Housing Corporation and Health Canada provide the Public Accounts Committee with a roadmap of specific actions, with timelines, that the departments intend to take to address the four structural impediments identified in Chapter 4 of the 2011 Status Report of the Auditor General of Canada.

AUDIT FINDINGS AND RECOMMENDATION

In its 2011 follow-up audit, the OAG examined progress made by federal departments in addressing 12 selected observations and recommendations from seven previous audits completed between 2002 and 2008 on the following issues: education, water, housing, child and family services, land claim agreements and reporting requirements. The OAG concluded that satisfactory progress had been made in some areas, but that, in other areas, progress had been slow. Departmental officials provided the Committee with further information about what action had been taken in each of these areas.

A. Education

In 2004, the OAG reported that there was a significant gap in educational achievement, measured by secondary school graduation rates, between First Nations members living on reserves and the overall Canadian population. The OAG recommended that AANDC should develop and implement a comprehensive strategy and action plan to close the gap.

In its 2011 follow-up audit, the OAG noted that while AANDC had launched a new educational initiative in 2008, it had only begun to implement a strategy to close the education gap.

In 2004, the OAG also recommended that AANDC should determine and compare the costs of delivering educational services on reserves with the costs of providing comparable educational services in the provinces. The follow-up audit found that AANDC had compared the formula it used to fund First Nations schools with the formulas used by several provinces, with the finding that per-student funding was similar.

With respect to post-secondary education funding, the OAG noted that AANDC continued to allocate funds to First Nations reserves without regard to the number of eligible students, which meant that some eligible First Nations students did not have equitable access to post-secondary funding.

The Deputy Minister of AANDC told the Committee that the government has developed a Joint Action Plan with the Assembly of First Nations. One of the components of this plan is the appointment of the National Panel on education, which is due to present its report in December 2011. Additionally, the Deputy Minister pointed out that, in the meantime, “we have pursued partnership programs. We have made investments in schools. We are developing agreements where we can, with local school boards and education authorities.”⁶ The Deputy Minister acknowledged that, without structural reform to First Nations education on reserves, there is not likely to be a large gain in educational results. He said:

⁶ Meeting 8, 1600.

One of the issues is--and people don't like to talk about this--the small size of the communities. You're talking about first nations with a median size of 410 people. That means half of them are smaller than 400, with fewer than 200 adults. Without school boards, without structures that bring people together on a geographic basis like the school boards in the provinces to share some of the resources, it's very difficult for the best-meaning teachers and principals in a small community to get the kinds of results, no matter how much money is put into those kinds of situations. I don't want to be misinterpreted--financing and stable, predictable funding are certainly part of the solution, but without the other structural pieces, I wouldn't expect a big gain in results.⁷

B. Drinking Water

In 2005, the OAG reported that First Nations communities did not benefit from a level of drinking-water protection comparable to people living off reserves. The OAG recommended that AANDC should develop and implement a regulatory regime for drinking water in First Nations communities.

In its 2011 follow-up audit, the OAG noted that, in May 2010, the government had tabled a bill that would have enabled it to make regulations related to drinking water on reserves. However, the OAG reported that it would take years to develop and implement regulations, as consultation, negotiation and capacity development will be required.

In 2005, the OAG also recommended that Health Canada, in consultation with AANDC, should conduct drinking-water tests and identify actions to be taken in situations where drinking water was not safe. The follow-up audit found that Health Canada and AANDC had not completed annual inspections and risk evaluations of drinking water systems for most of the First Nations communities examined by the OAG. For situations where drinking water was found to be unsafe, Health Canada and AANDC had established a process to ensure that appropriate actions were taken. Nonetheless, the OAG reported that more than half of drinking water systems on reserves still pose a significant risk to community members.

⁷ Meeting 8, 1600.

The Deputy Minister of AANDC told the Committee that he expects that the government will introduce a bill on drinking- and waste-water standards, taking into account feedback from parliamentary hearings on the earlier bill. Also, the government has invested considerable sums in drinking- and waste-water treatment systems on First Nations reserves. He said:

The investments have been significant, and to be fair they go back to about the 2003 budget. The current government made further investments in the 2006 budget, and it renewed some again I think in 2009. We also benefited from further resources that were available in the stimulus package, Canada's economic action plan, so between us and Health Canada, we're running at about \$400 million a year. It would be well north of \$2 billion in the last six or seven years.⁸

Lastly, the department has commissioned an engineering assessment of every facility on every reserve.

C. Housing

In 2003, the OAG noted that there was a shortage of about 8,500 housing units on reserves and that 44% of existing housing required renovations.

In its 2011 follow-up audit, the OAG noted that AANDC and the CMHC had made new investments in housing. However, these investments had not kept pace with either the demand for new housing or the need for major renovations to existing units. The housing shortage now exceeds 20,000 units.

In 2003, the OAG recommended that AANDC, the CMHC and Health Canada should develop a comprehensive strategy and action plan to address the problem of mould on reserves. In its 2011 follow-up audit, the OAG found that they had developed a strategy, had taken action to increase awareness about the causes of mould and had provided training. However, these organizations had not allocated additional funding to address mould, had not determined the magnitude of the problem, had not estimated the

⁸ Meeting 8, 1610.

cost to remediate existing mould and had not completed most of the action items in their strategy.

Officials from Health Canada and the CMHC told the Committee that they had developed a health promotion campaign and had developed and distributed pamphlets, DVDs and other materials to all of the First Nations communities.⁹

D. Child and Family Services

In 2008, the OAG reported that 5% of all First Nations children living on reserves were in care, which was close to eight times the proportion for children residing off reserves. The OAG recommended that AANDC should define its policy requirement that First Nations services be culturally appropriate and be reasonably comparable to services available off reserves. The OAG also recommended that AANDC should determine the full costs of meeting the policy requirements of its Child and Family Services Program.

In its 2011 follow-up audit, the OAG found that AANDC had assessed the costs associated with its new Enhanced Prevention Focused Approach and had obtained increased funding for its Child and Family Services Program. However, AANDC had not yet defined culturally appropriate services, nor had it defined comparability or conducted a review to ensure that services available on reserve were reasonably comparable to those available off reserves.

The Deputy Minister of AANDC told the Committee that the federal government had reached tripartite agreements with First Nations and six provinces, and AANDC is currently working on reaching agreements with British Columbia and New Brunswick. These agreements come with increased federal funding and encompass a broader range of services, as they incorporate an enhanced prevention approach to child and family services. The Deputy Minister said:

⁹ Meeting 8, 1650.

We have fixed the funding formula. We make sure resources are available for prevention services. And we've put in place these kinds of tripartite agreements, because these are creatures of the provincial child protection statutes. In six of the provinces, I think it is, we have \$100 million or more in funding over several budgets. They go at the pace at which we can conclude agreements with the provinces--I can certainly provide the list--but we're now covering about 68% of first nations kids with this prevention approach.¹⁰

E. Land Claim Agreements

In audits conducted in 2003 and 2007, the OAG found that AANDC and other federal departments were not implementing some key federal obligations related to comprehensive land claim agreements. Also, departments were considering only the letter of their land claim implementation responsibilities, not the spirit or intent of the agreements. The OAG recommended that AANDC should amend its land claim obligation database, strengthen its coordinating framework and develop a strategic approach to implementing obligations.

In its 2011 follow-up audit, the OAG found that AANDC was beginning to take into account the spirit and intent of land claim agreements, in part by developing guidance indicating a broader interpretation of the federal government's obligations. AANDC also had developed an electronic data-capture system to monitor the status of all federal land claim obligations, but AANDC had not clearly communicated specific obligations to other responsible federal departments.

The Deputy Minister of AANDC said that his department had created a database of federal land claim obligations, developed a framework for the implementation of land claims and provided training to staff. The government has also created mechanisms, such as inter-departmental committees, to bring together senior staff in different departments. The Deputy Minister also noted that, "we think the communities that have modern

¹⁰ Meeting 8, 1630.

agreements are doing better than the ones that don't—and there's a cost to the country of leaving land claims sitting there unresolved as well, which has to be taken into account.”¹¹

F. Reporting Requirements

In 2002, the OAG estimated that four federal organizations together required about 168 reports annually from each First Nations reserve. However, the OAG found that many of the reports were not in fact used by the organizations. The OAG recommended that the government should review, on a regular basis, reporting requirements for First Nations and drop unnecessary or duplicative requirements.

In its 2011 follow-up audit, the OAG noted that AANDC had introduced an electronic reporting system for the management of transfer payments, which was partly designed to reduce the reporting burden. The audit found that this system led to a streamlining of some reporting requirements but that, due to limited capacity and staff turnover, only 228 of approximately 700 First Nations and tribal councils were regularly using the new system. First Nations also told the OAG that they had not seen a reduction in their reporting requirements; rather, the reporting burden had increased in recent years.

The Deputy Minister of AANDC told the Committee that he had assigned a senior person to look closely at the issue of the reporting burden on First Nations, and he expects that the government will make progress in the next few years.¹² In addition, the department had completed a risk assessment of First Nations and is moving to multi-year contribution agreements, where appropriate, which should reduce the reporting burden associated with renewing agreements.

¹¹ Meeting 9, 1635.

¹² Meeting 9, 1650.

G. Implementation Plan

The OAG concluded that, while considerable efforts have been made and concrete actions have been taken in some areas, federal organizations have not made satisfactory progress in addressing a number of recommendations from previous audits. More specifically, AANDC had just begun implementing a strategy to close the education gap. AANDC and Health Canada had not ensured that drinking water is tested on a regular basis. AANDC, Health Canada and the CMHC had developed a strategy to deal with mould in housing, but it was not comprehensive and focused on education rather than remediation. AANDC had not defined its policy requirement to provide child and family services that are reasonably comparable to services provided by provinces. AANDC had also not developed and implemented a plan to communicate to other federal organizations their specific obligations under land claim agreements. Lastly, AANDC had not managed to make a significant reduction in the reporting burden on First Nations.

The OAG recommended that AANDC, in consultation with other relevant federal organizations, should develop implementation plans for the recommendations on which progress had been unsatisfactory or incomplete. AANDC agreed with the recommendation. Audit work on this chapter was substantially completed on November 1, 2010, but AANDC did not provide the Committee with implementation plans for the outstanding recommendations, nor did it indicate when it would be prepared to do so. As the Committee believes that AANDC needs to continue to make progress in addressing issues facing First Nations on reserves, it recommends:

RECOMMENDATION 2

That, by 31 May 2012, Aboriginal Affairs and Northern Development Canada, Canada Mortgage and Housing Corporation and Health Canada provide the Public Accounts Committee with the implementation plans called for in recommendation 4.86 of Chapter 4 of the 2011 Status Report of the Auditor General of Canada.

CONCLUSION

The OAG's follow-up audit found that, in a number of important respects, conditions for First Nations had worsened since earlier audits. The Interim Auditor General said, "For example, the education gap has widened, the shortage of adequate housing on reserves has become more acute, the presence of mould on reserves remains a serious problem, and administrative reporting requirements have become even more onerous."¹³ Nonetheless, the Deputy Minister of AANDC told the Committee that he is optimistic that meaningful progress can be, and is being, made. Specifically, he said, "I am confident that the next year or two can mark a turning point in this area, and for our country, if we listen to that clear advice. I hope that we're prepared to work together across departments, across federal and provincial jurisdictions, across public and private sector boundaries, and across partisan political interests, to use the road map and make structural changes that are required."¹⁴

The Committee notes that the government is taking a number of concrete actions to improve conditions for First Nations on reserves, and the Deputy Minister of AANDC expressed his commitment to address the structural impediments identified by the OAG. Like the Deputy Minister, the Committee is optimistic that progress can be made, but it will require significant structural reforms and sustained management attention. The Committee believes that AANDC, in coordination with other departments, needs to develop and commit to a plan of action to take the necessary steps, and the Committee intends to monitor the government's progress to ensure that First Nations on reserves experience meaningful improvements in their social and economic conditions.

¹³ Meeting 8, 1535.

¹⁴ Meeting 8, 1540.

APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p>Canada Mortgage and Housing Corporation Douglas Stewart, Vice-President, Policy and Planning</p> <p>Department of Health Shelagh Jane Woods, Director General, Primary Health Care and Public Health Directorate, First Nations and Inuit Health Branch</p> <p>Department of Indian Affairs and Northern Development Michael Wernick, Deputy Minister</p> <p>Office of the Auditor General of Canada Frank Barrett, Principal Ronnie Campbell, Assistant Auditor General John Wiersema, Interim Auditor General</p>	2011/10/19	8
<p>Canada Mortgage and Housing Corporation Douglas Stewart, Vice-President, Policy and Planning</p> <p>Department of Health Shelagh Jane Woods, Director General, Primary Health Care and Public Health Directorate, First Nations and Inuit Health Branch</p> <p>Department of Indian Affairs and Northern Development Michael Wernick, Deputy Minister</p> <p>Office of the Auditor General of Canada Frank Barrett, Principal Ronnie Campbell, Assistant Auditor General John Wiersema, Interim Auditor General</p>	2011/10/24	9

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (41st Parliament, 1st Session: [Meetings Nos. 8, 9 and 15](#)) is tabled.

Respectfully submitted,

David Christopherson, M.P.

Chair