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Chair

The Honourable MaryAnn Mihychuk

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• (0905)

[English]

The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)): I call the committee to order. I want to welcome everybody to the Standing Committee on Indigenous and Northern Affairs. We're here on the unceded territory of the Algonquin people. Today we only have one witness, and that's Indigenous and Northern Affairs Canada. After this presentation we'll try to do some committee business. We'll take the subcommittee's report after we hear from the presenters.

With us is Paul Thoppil, chief financial officer; Renetta Siemens, deputy chief financial officer; and Serge Beaudoin, director general. You have 10 minutes to present, and then there will be a series of questions from the committee.

Welcome, and I turn it over to you.

Mr. Paul Thoppil (Chief Financial Officer, Chief Financial Officer Sector, Department of Indian Affairs and Northern Development): Good morning, Madam Chair, and members of the committee. Thank you for the invitation to come before you. It's good to be back here. I have my colleagues with me in order to provide support or respond to your questions on this very important issue.

Let me begin by saying that the study is very timely. As you will no doubt hear from other witnesses who come before you, the default prevention and management policy and its provisions—particularly those related to third party management—have encountered many challenges and a fair share of critical comments over the years. As such, they have been, and continue to be, areas of serious preoccupation and ongoing concern for the department.

Having said that, I would like to note that the default prevention and management policy, or DPMP, articulates a useful framework to, first, ensure that situations of defaults are addressed as early as possible through graduated means whereby only the level of intervention necessary is used; second, support first nations' efforts to prevent, identify, and address their own default; and third, help first nations manage their way out of defaults towards long-term sustainability in delivery of programs and services to their citizens.

Before going any further, I should inform you that I have to define the notion of default in the default prevention and management policy. Default is a condition that may include one or more of the following triggers: first, the health, safety, or welfare of the citizens is at risk, and this may be caused by floods, fire, a breakdown in

service delivery, or sudden developments that cause citizens to go without essential services; second, the first nations government fails in its key obligations under the funding agreement, which may include the refusal to sign the funding agreement, leaving its citizens without essential services and the department with no legal means to transfer money to these citizens; third, an adverse auditor's opinion on the first nations' annual audited financial statements, which denotes a lack of confidence demonstrated by the auditor of the first nations community; and fourth, the first nations' financial position deteriorates so as to place management of public funds or delivery of funded programs and services at risk.

In my remaining time in my remarks, I will focus mainly on some of the key challenges we have encountered with the DPMP. I will also touch on issues we are dealing with, and on the efforts we in the department—working closely with first nations and indigenous representative organizations—are making to try to address these concerns. The objective of these efforts is to help first nations to exit defaults as quickly as possible and in better shape, avoid future defaults, and build increased capacity for them to manage their affairs sustainably, accountably, and for the benefit of their citizens.

The policy came out originally in 2008 and was reviewed and subsequently updated in November 2013. This is the basis of the policy we're working with today, although it is now subject to review as part of the minister's signing an MOU with the Assembly of First Nations, AFN, whereby we are looking at a new fiscal relationship. One of the elements of this is the default prevention and management policy. We are very excited by the committee's study because we'd like to take advantage of your good work for that ongoing technical exercise.

The principal objective of the policy is to maintain continuity in the delivery of federally funded programs and services to first nations citizens while the first nation is in default. This policy aligns with the Treasury Board transfer payment policy, which ensures that when a government ministry transfers funds to a recipient, regardless of whether it's a first nation or any other organization, there is a duty imposed on the government ministry to evaluate the risk profile of recipients of government financial transfers and manage these transfers accordingly, based on the risk profile. It's under that Treasury Board transfer payment policy that we have developed our default prevention and management policy as a subset of how we manage those funds on behalf of Canadians.

What we're trying to do with that policy is establish a principle that first nations citizens should be held harmless and protected from the failings of their governors or administrators or from circumstances over which they have no control.

• (0910)

Together with Health Canada, which represents the majority of aboriginal spending, we have tried to work collaboratively on a number of fronts to support the management of grants and contributions. We use joint approaches on general risk assessment, default identification, and remediation so that, as much as possible, they are joint actions of engagement with the community.

While everybody is very familiar with this phrase, "third party management", that's not what the default prevention and management policy is all about. There are a number of pillars associated with this policy. The first one is default prevention, and that's avoiding the situation to begin with. The objective here is to avoid defaults by being proactive and working with the department. What we try to do, according to the Treasury Board transfer payment policy, is evaluate the risk situation, or in a more positive way, the health situation and the well-being of the community. We have established a number of indicators to assess the risk profile or the health and well-being of that community. We use, for example, something called the general assessment score or methodology to do that monitoring and to see whether there are any warning signs. If we see any warning signs, then we engage with the first nation to see whether we can get them back to where they should be, in terms of a better score, to avoid the default in the first place.

If we are not successful in those efforts in working with the first nation to avoid default, we go to pillar two, which is the default management itself. We apply a risk-based default assessment tool, a risk rating on the degree of the default. As I said before, with the default prevention and management policy, when you get into default management, that does not necessarily mean we automatically go to third party management. That is the most interventionist element, and we try to avoid that.

There are various levels of intervention or engagement with the first nation that we try to exercise before imposing third party management. For example, we try to do what is called a recipient. At the first level, a very light one, we ask the first nations community to develop a management action plan to get them out of the default. On their own, they develop a plan to get themselves out of the default. At the second level we then say, "You need some help. You need an adviser to get you out of the default. You can even appoint the adviser you want." The first nation contracts an adviser to assist them in the implementation of this management action plan to get them out of the default. These advisers are paid out of the band support funding.

The last, and the one you may hear the most criticism about, is the most interventionist, and that is called third party funding agreement management. This is where we engage and we contract a third party manager who we choose to manage the funding agreement that we have between us and the first nation.

• (0915)

The Chair: You have one and a half minutes, sir.

Mr. Paul Thoppil: We try to use that rarely, and we only do it in circumstances where all other avenues have failed. That's usually because the first nations governance breaks down or there's an inability to address the circumstances that caused it.

The third and final pillar is sustainability, which is trying to get the first nations to never go back to it again and to move forward.

Here are some key statistics. There are about 142 incidents, with various levels of intervention. About one-third of the first nations communities have low capacity. Seventy of those 142 are of the most light recipient-managed action plans. Then there are about 62 first nations that have a recipient-appointed adviser. There are 10 first nations under third party management. By the end April, we expect that to move to eight. Essentially, about 1% of first nations communities are in third party management, which is a good sign. It's good to see that it's a declining number over the years. It used to be 15, 12, 10, and now eight, so it's going in a good way.

One of the things we are trying to do to fix the problem is look at a number of things, such as innovation, by, for example, engaging with the First Nations Financial Management Board, which is an indigenous institution to work with selected first nations and third party management to get them out of default. That's one example of things we're trying to do.

The Chair: I'm sorry, but you've run out of time. Thank you for that.

I'm going to open it up to questions. Perhaps we'll explore the rest of your information at that time.

Our first questioner is MP Michael McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you for the presentation.

This is an issue I think that we're experiencing across Canada. It's a little bit different in the north because our financial arrangements are a little different. However, we still have similar challenges. I think you did a good job outlining your policy, but the policy really means nothing if the funding is inadequate, if there are other factors that are out there that are triggering the situation.

I've had the opportunity to talk to many aboriginal leaders in my riding over the years. I worked as a band manager and so I've seen it from many angles. In the last while, the last 10 years, we've seen up to a 40% reduction in band core funding. It's leaving the band councils in the situation where they're trying to transfer money from one budget line to another just to cover crisis situations.

I talked to the chief in my community this weekend and he indicated to me that their band council has been in a deficit situation for 16 years and unless he does absolutely nothing, pays absolutely nobody, he's probably not going to get out it.

We have communities that are over a million dollars in the hole because they can't afford to operate their offices, yet they have a responsibility. The federal government has offloaded a lot of the responsibilities onto the band councils. It was, "you got your money, you look after your people". It's a sink-or-swim situation and for the ones who have real challenges, once they encounter a deficit situation they can't seem to get out.

We have had studies done in the north by the Auditor General that have assessed our obligations and they gave us a failing mark on meeting those obligations for land claims organizations, self-government. We can't really point to that as a solution to our issues.

We've had the Auditor General do studies on funding to our communities because we don't have reserves. We have two reserves in the Northwest Territories and the rest are public communities filled with aboriginal people. The Auditor General said we're not meeting our obligations.

I wanted to talk about some of the triggers that we're encountering. I heard you mention some things, but I wanted you to focus more on adequate funding and whether there's any intention to reinstate some of the funding that was cut.

Mr. Paul Thoppil: I totally concur with you that the implementation of the policy doesn't mean much for certain first nations if there's not overall adequate funding. It all depends upon what the circumstance is.

Sometimes it's just a lack of governance. It's not necessarily the lack of funding whereby there has been a breakdown. Every third party management situation, if you take just that element of the policy, has different circumstances.

That being said, where it's related to financial insolvency and a lack of appropriate financial management and administration, your point is correct, whereby if you don't have sufficient band support funding or if there's insufficient capacity development dollars.... For example, we have a very small budget at Indigenous and Northern Affairs for professional and institutional development, to provide some money to those first nations to help them with their management action plan, but it's just to help them and it's not sustainable. If they don't have sufficient band support funding overall, then there is a likelihood, particularly for those first nations that don't have own source revenues to cover those deficits, to borrow from others.

This is where the minister has instructed us to engage with central agencies about—

● (0920)

Mr. Michael McLeod: Can you maybe just elaborate on how many band councils are in deficit situations? Would you be able to find that out and get back to us on that?

Mr. Paul Thoppil: If we can. Sometimes with block funding it's hard for us to take a read on that, but we can see what we can do to give you a readout on that.

Mr. Michael McLeod: You mentioned a couple of things about challenges in governance. A lot of the challenges in governance are caused by insufficient funding. They'll have a band council that's elected and tries to get out of a deficit situation. It will freeze all spending and then the rest of the community will take the council out

and try to put somebody in who will invest, but the bottom line is there is not enough money.

The refusing to sign an agreement, as you mentioned in your presentation, is because it's inadequate. They don't want to sign it. They know it's not going to work for them. They are going to be signing a deal that will allow them to be masters of their own misery. Funding is the root cause, but I don't see you pointing to that. You want to stick to the policy, which really does nothing.

You could change this policy as much as you want. It's not going to change the root cause of the problem.

Mr. Paul Thoppil: Mr. McLeod, I'm sorry if my presentation did not.... I was just talking about the policy itself and how it works.

Mr. Michael McLeod: I know.

Mr. Paul Thoppil: I share your concerns that if there isn't sufficient capacity development funding for low-capacity first nations that don't have access to own source revenues in particular, then it's very hard—notwithstanding any degrees of expertise by outsiders to engage with them—to get them out.

I do take your point.

The Chair: One minute.

Mr. Michael McLeod: There is a desire to work with the band councils and organizations, with aboriginal governments that are in a situation where they need to work towards improving their accountability and reporting and all these things.

How do you do that? Do you have it in the contract for the third party managers to provide that kind of information and training?

Mr. Paul Thoppil: We are doing a number of things. For example, through that professional and institutional development budget that I mentioned, we provide funds for things like financial software and financial training, because that's an element embedded in the management action plan that has been worked together.

Mr. Michael McLeod: Okay, I have one last question before I run out of time.

Does the money for the third party managers come out of their core funding, or is that a separate pot of money that comes from the department?

Mr. Paul Thoppil: It comes out of their band support funding.

Mr. Michael McLeod: Not only are they obligated to recover the debt and find a way to train themselves, but they also have to pay for somebody else who is hired.

Mr. Paul Thoppil: That's correct.

The Chair: We're at almost seven and a half, so the questioning is now going to MP Cathy McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Madam Chair.

There was one comment you just made that I found quite stunning. We hear regularly in the House that if members want to have access to the financial information of the band, you actually have it through audited statements. To suggest that you cannot tell us the status of deficits is quite stunning to me, because that goes absolutely contrary to what we're being told on a regular basis.

I just wanted to flag that. It gives me great concern if you cannot tell us what the deficit situation is. That would be my first comment.

I have a second request. You talked in vague generalities, but could you table the document with the committee? You said 142 and the different levels, but it would be very interesting to know how long people have been at the different levels. I'd like to see a trend over time, because I've heard that sometimes there's a bit of an industry and that indeed, although the goal is to get people out of third party management, sometimes the motivation perhaps is not there. I would like to see data that looks at trends over time tabled with the committee. That would be very helpful.

I agree with my colleague Mr. McLeod that it would be worthwhile having insight in terms of the degree of adequacy for needs. It's a bit of a different issue, but I think it is an important issue that needs to be reflected.

As you go through the statements that have been posted, it would be good to know, also in terms of transparency, how we've drifted downwards since the lack of compliance.

There's one band, Neskantaga, where the auditor said he was unable to satisfy himself over the completeness, existence, and valuation of capital assets. This has been for a couple of years now. Are they in third party management? What is the plan for that particular band?

• (0925)

Mr. Paul Thoppil: I can tell you that one is not under third party management.

Mrs. Cathy McLeod: They have an audited statement. You talked about triggers and an audited statement. They have audited statements that are significantly concerning for a number of years now, and you would say there have been no interventions in that case. Can you explain that?

Mr. Paul Thoppil: I'm not necessarily saying there isn't a level of intervention. I'm saying it's not third party.

Mrs. Cathy McLeod: Under your pillars.

Mr. Paul Thoppil: Right. As I may have explained in my opening remarks, there are different types of intervention and we try to avoid third party to the extent that we can. It does not necessarily mean that there aren't other forms of lighter intervention, where we're engaging in order to assist that first nation out.

Mrs. Cathy McLeod: What level are they at?

Mr. Paul Thoppil: They are a second-level intervention.

Renetta may want to speak to this.

Ms. Renetta Siemens (Deputy Chief Financial Officer, Corporate Accounting and Material Management, Chief Financial Officer Sector, Department of Indian Affairs and Northern Development): It's a recipient-appointed adviser, so they themselves

engage an adviser to support them in their financial management. It's the second tier of the three tiers that we mentioned.

Mrs. Cathy McLeod: How many significantly poor audited statements would it take before you would increase the flags? We don't know how long this recipient designated person has been in place, but I think it would be valuable to know how long before you'd raise the next flag.

Another one—

Mr. Paul Thoppil: Just to respond to that, with regard to audit opinions, when it's adverse you have to look at what that adverse statement actually is, because it does vary.

Mrs. Cathy McLeod: Okay. So—

Mr. Paul Thoppil: It's not a blanket kind of adverse. One has to be fairly nuanced.

The Chair: I would ask the respondents to wait until the question is posed.

Mrs. Cathy McLeod: Obashkaandagaang has had a number of statements where the auditor has indicated that the statements can't be believed. Where are we at there? How long has there been support? I'm glad the community is aware of this issue because of the transparency, because it's posted, and they can actually hold their communities to account, but that's a pretty concerning statement by the auditor. Where are we at?

The Chair: You have about two minutes left.

Ms. Renetta Siemens: Maybe we can provide that off-line. I'll need to look for that and find more information.

Obashkaandagaang is in a recipient-appointed adviser situation as well, the second tier.

Mrs. Cathy McLeod: If I were a community member and I had a statement that the auditors were saying couldn't be believed... Why is that not triggering a much higher level of concern in terms of intervening?

I suppose the other part is that when we have that information tabled, could we also look at the minimum qualifications of the third party managers or the support people who are appointed? Are there minimal qualifications for them in terms of the job they're doing?

• (0930)

Mr. Paul Thoppil: You're asking all the right questions, Ms. McLeod.

The reason they're not third party is that, as I explained in my opening remarks, we don't want to impose third party. If there is another way that is lighter, whereby the community can take responsibility for themselves to get out of default, that is our go-to option.

Mrs. Cathy McLeod: Great, but how many years have they had that level of support, and has it made a difference? To go back to my original question—

Mr. Paul Thoppil: We can provide you with the trends. We can say that over the past couple of years, we have seen movement of 18 in terms of a positive reduction in the levels of intervention. That was over a period of just a year and a half to two years. I think that's pretty good.

As I said in my opening remarks, the most interventionist one... We started a couple of years ago at 15, and we hope by the end of April to be down to eight. So it's going the right way, but these things take time.

Mrs. Cathy McLeod: Yes. Well, going the right way is great—

The Chair: You need to wrap up.

Mrs. Cathy McLeod: —but I hope the statements also reflect that, going in the right direction. Again, if I were a community member, I'd be very concerned about that particular trend.

The Chair: Thank you.

The questioning now goes to MP Saganash.

[*Translation*]

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): Thank you, Madam Chair.

I usually continue the conversation in the language I was speaking when I went to bed the night before. I'll speak in French this morning.

I'm not sure today's study is the top priority of aboriginal communities. Aboriginal matters were so neglected in the past that everything became a priority in the communities. I'm not sure the topic of this study is a priority.

That said, let me be clear. I've always believed that transparency and accountability are two pillars of all governance in both aboriginal and non-aboriginal communities, especially since we're covering many angles of the default prevention and management policy issue.

A ministerial task force must focus not only on the legislation, but also on the government policies. I suppose this will be one of the topics addressed, or at least I hope so. According to Indigenous and Northern Affairs Canada's 2016-17 report, the plan is to start reviewing the policies on this issue. I'm sure this committee will submit an excellent report, as usual. Obviously, the memorandum of understanding with the Assembly of First Nations will also address this policy. Therefore, I'm not sure we know exactly who will do what within the range of processes related to this topic.

My first question concerns the cost of these processes at the first, second or third level. The communities are responsible for covering the costs. You emphasized the words "who we choose", but you failed to mention that the communities pay for these processes to be carried out.

As a result, who determines which budget item the money will come from to pay for these third-party managers or to cover the other aspects of the policy?

[*English*]

Mr. Paul Thoppil: The advisers are paid out of the band support funding, essentially in all cases. This is where, in response to Mr.

McLeod's question, we do concur that the level of band support funding there needs to be revisited to make sure it's adequate for their needs.

The advisers are chosen under third party. We have a standing offer that is done nationally, and we choose those who qualify based on their qualifications. This is to respond to Ms. McLeod's question.

The recipient-appointed advisers, where they get to choose, are based on their own choice. We will try to have a conversation with them about the criteria that we think would be adequate in terms of choosing that adviser, but ultimately, it's the recipient, the first nations community, that decides on the adviser.

● (0935)

[*Translation*]

Mr. Romeo Saganash: At the third level, the most serious level, the community must pay.

I wanted to know who determines where the money will come from to pay for this. Do the communities themselves determine where to take the money from?

Mr. Serge Beaudoin (Director General, Sector Operations Branch, Regional Operations Sector, Department of Indian Affairs and Northern Development): Yes. The first nation determines where to take the money from. We know that the average cost for the first nations at the third level of intervention is about \$170,000 a year.

Mr. Romeo Saganash: In these cases, the community may be forced to take the money from the post-secondary education funds, for example.

Mr. Serge Beaudoin: The community is responsible for deciding where to take the money from. However, it can't take money from funds for essential services. Normally, the money should come from the band council's funding.

Mr. Romeo Saganash: Is there an agreement that the money must not come from funds for essential services?

Mr. Serge Beaudoin: Yes.

Mr. Romeo Saganash: I have one last question.

Mr. Thoppil, you said that you're dealing with a number of challenges. You didn't have time to reach that part of your text, but I want to hear more about how you're overcoming these challenges.

[*English*]

Mr. Paul Thoppil: Thank you very much for asking the question, because I didn't get a chance to finish my remarks.

I started my opening remarks saying these challenges aren't new. We started with a policy in 2008. We did a review. We updated it in 2013. Four years later we are now reviewing it again because we do need to review to update it, based on what we're hearing from communities. Yes, through the discussions with the Assembly of First Nations, we're trying to see what we can do to fix it and hopefully make it even better. In the interim, there are actions we can take. We are not sitting still because we want to do what we can. It's very interventionist when a community is under third party. We don't like that.

For example, we are doing a pilot project with the First Nations Financial Management Board. We have given them, through some identification of some flex funds within our department, funds to work with five willing first nations under third party to get them out of third party, as opposed to our doing it or doing it through the traditional way. We are hopeful that may be a more sustainable way going forward.

The Chair: Thank you.

Our questions are moving to MP Massé.

[*Translation*]

Mr. Rémi Massé (Avignon—La Mitis—Matane—Matapédia, Lib.): Thank you, Madam Chair.

I want to thank the witnesses for participating in the committee's work.

I'll continue along the same lines as my colleague, Mr. Saganash.

In your opening remarks, you indicated that the default prevention and management policy was an area of concern for the department. I want to hear your comments on the department's concerns regarding this policy.

[*English*]

Mr. Paul Thoppil: Our view is that our legislative mandate is to try to reduce the socio-economic gaps faced by communities. It's very hard to accomplish that when we have this irritant in the relationship with the community, which is the default prevention and management policy. How do we make that policy less of an irritant so we can concentrate on what Mr. McLeod said, which are the underlying root causes?

When you have that level of low noise out there, it takes away from what the minister is very focused on, the development of a comprehensive community plan where you get the whole community to engage in it, and then we can invest according to what the community wants. When you're in a level of default, then there's a level of irritation whereby the first nations community doesn't necessarily want to move forward in partnership with us in a productive way to deal with that, funding levels aside. That's just one issue.

We also have to acknowledge that, notwithstanding the recent progress in third party from 15 now down to eight by the end of April, a number of first nations have been in third party or some level of intervention for way too long. There is a systemic issue and we need to figure out the underlying root causes. Maybe it's band support funding, maybe it's the overall level of funding. Why are some first nations not able to get them totally out? Why have them in there? We have one first nation that's been in since 1998. That very much concerns me; they have essentially, through those years, given up, and they've become used to having somebody manage their affairs. We need to stop that.

• (0940)

[*Translation*]

Mr. Rémi Massé: Mr. Thoppil, how are you engaging with the communities on these lists through your work? As you said, some communities have been in default since 1998. What's the department's engagement with the communities in terms of trying

to understand and solve problems? It's 2017, and these problems have existed for a long time.

[*English*]

Mr. Paul Thoppil: This is where the department benefits from regional offices across the country, whose sole job is that day-to-day relationship. There is not a day that goes by without some degree of communication between that first nations community and our regional office, and they are working valiantly every day to figure out a management action plan and a go-to to get them out.

Some of it requires investment and some of it is just acknowledgement by certain leadership that they've got to move forward. Some of them just need technical capacity that they can't find within the community. Each situation is very different; that's why it requires some degree of triage.

[*Translation*]

Mr. Rémi Massé: I want to go back to the policy review the department plans to do. What are your key goals? What's your game plan? What's your time frame for achieving the goals of the policy review?

[*English*]

Mr. Paul Thoppil: Obviously, a measure of success is that we don't have any degree of intervention at all. I take Ms. McLeod's point on the trends. We, in our job in the finance part of the department, together with my colleagues in the regional office, are looking at the state of the trend, our dashboard, of level of intervention continuously, and then we have a conversation about why certain things are happening. Are we not proactive enough? Is that regional office not being proactive enough, or what's the issue with that first nation in particular?

That's a continuing monitoring role that we're playing because that is our measure of success in the end, the reduction. We want first nations to govern themselves, take accountability for themselves, and essentially move to a healthy, well community, and we don't want to be part of that.

[*Translation*]

Mr. Rémi Massé: Okay.

I'll repeat the second part of my question. What's your time frame for the policy review? How much time are you giving yourself to carry out the work?

Mr. Paul Thoppil: Sorry for giving a partial answer.

We determined that our deadline for finishing the report for the minister and the Assembly of the First Nations would be the end of this year.

[English]

This new fiscal relationship, for which the default prevention and management policy is part of what I would call rubric of financial management policy.... Embedded in the new fiscal relationship is a pillar of mutual accountability. What is that level of accountability that first nations governance is going to have in terms of community members on things like performance outcomes on programs, financial accountability, and so on? What is the duty of Parliament and the Government of Canada in terms of accountabilities to the first nations communities? That's one of the elements of it, and the default prevention and management policy has to be taken into account in that frame.

• (0945)

The Chair: You have forty-five seconds.

[Translation]

Mr. Rémi Massé: I won't ask my other question, because it requires a fairly detailed answer.

Thank you.

[English]

The Chair: The questioning now moves to MP Yurdiga.

Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC): I thank the department for joining us this morning.

According to the department's presentation, approximately 140 first nations and first nations organizations are currently under some sort of default management, so I'd like to concentrate on the third party managers. What criteria is used to assess and select third party managers for inclusion on the list of pre-qualified third party managers? How are they pre-qualified to actually be managers?

Mr. Paul Thoppil: We go through a national RFP process. That's public and it's embedded in that RFP in the statement of qualifications that we are seeking in terms of making them eligible to be part of that standing offer. We can table that with the committee so that you can see that as part of your study to assess whether those qualifications are adequate or not.

Mr. David Yurdiga: Thank you.

What is the average cost of employing co-managers or third party managers, and what is the difference between a co-manager and a third party manager?

Mr. Paul Thoppil: Again, that speaks to the level of intervention. Co-management means that the adviser is working in partnership with the community, whereas third party is, as we said, the most interventionist, whereby, effectively, an outsider or the adviser is running the community financially. The two are very different because, on the co-management, the first nations governance is still actively working but just has to have a check-off with the adviser in terms of what it wants to do. That's why we, in the level of intervention, try to go that way as much as we can to avoid third party to the extent that we can, because we don't want to be in the situation of running their affairs.

Mr. David Yurdiga: What mechanisms are in place to monitor third party funding agreement managers? How do you monitor their progress?

Mr. Paul Thoppil: That is one of our challenges. I don't think that we do a very good job of assessment. We try to do so as part of the reviews of why a first nation under third party management as long as it is. If we feel that, in fact, the third party manager is at fault, we will get rid of that third party manager and bring in a new one. We do a review, but is it as robust as we'd like it to be? Probably not.

Mr. David Yurdiga: It's quite concerning that a lot of these first nations have to go through this process. What steps are needed for them to emerge from third party management?

Mr. Paul Thoppil: In every case there is a management action plan. Each situation is different and depends on how they got to that situation in the first place. For some, as I said, it's just in getting quorum. There is a division within the community, and they just can't get together to have a proper governance board in order to manage themselves. That's one reason.

Another one is financial management. They don't have any financial bylaws. They don't have a technical capacity in finance, so they need to go through that process.

Another reason is that they've been in default with lenders. That is where we, through the adviser, need to get that debt down so that they can actually go into that third pillar of our policy, sustainability. Then we move away because the debt that they have accumulated over the years has been repaid.

It depends upon every situation. We monitor progress, and as we see progress, we move from third party to the lighter interventions, eventually getting out. That's part of that dashboard review of how they are doing: are they getting out or are they still stuck? If they're still stuck, why? Why aren't we getting them up to the next lighter intervention level so that we can get them out?

• (0950)

Mr. David Yurdiga: I understand that INAC is currently, or potentially, looking at reviewing the third party management policy. Has the department begun its review?

Mr. Paul Thoppil: Yes, we've been doing some review over the past half-year in order to be helpful in those technical conversations with the Assembly of First Nations.

Mr. David Yurdiga: What is the anticipated duration of the review? Is it going to be a multi-year thing? Is it going to be a year? What are the timelines?

Mr. Paul Thoppil: We are bringing that work into the Assembly of First Nations relationship, and as I informed Mr. Massé, we have a deadline under the MOU for the end of the calendar year. What we're looking for is to take advantage of your work, as well, for that review.

The Chair: Thank you.

The questioning goes to MP Anandasangaree.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): Thank you very much for joining us today.

I'm just wondering if you could give an outline with respect to the numbers. You indicated that 142 communities are currently under some form of intervention. The term used was that they are self...62 of them are able to appoint their own co-manager, I guess. What is the difference between the pool of organizations that can be self-appointed versus the panel that you would use for the 10 that are currently under third party management?

Mr. Paul Thoppil: The pool is the same, but the issue is who gets to select, right? That's because we're trying to avoid dictating. We don't want to do that. The pool is essentially the same, but sometimes they will choose to even go beyond the pool. Then we have a conversation about that. Quite frankly, in the end if they are adamant about it and if we feel that there are adequate qualifications, that's fine. The issue is not the adviser but getting them to deal with the management action plan that is to address the default in the first place.

Mr. Gary Anandasangaree: What I'm trying to get at is with respect to capacity building. One way to build capacity is to make sure that organizations that are on the panel adequately reflect the communities, or have members of the community who are trained, or that there's an obligation for them to train individuals to be able to undertake some form of management.

How does the panel look right now, and are those considerations incorporated into your selection of the panel?

Mr. Paul Thoppil: Do you mean in terms of the advisory pool?

Mr. Gary Anandasangaree: Yes.

Mr. Paul Thoppil: It is one of the remits of the advisers for doing capacity development. That being said, if there are no underlying capacity development dollars, as Mr. McLeod rightly said, then there's only so much they can do in terms of level of training and so on. The two come hand in hand.

We try to do what we can by way of supplements through the professional institutional development budget that we have and try to prioritize funding according to the management action plans, but it's somewhat limited.

Sometimes the third party managers, to be fair to them, are so engrossed in just doing the management of the funding that the element related to the training and development is, without any tools, somewhat limited.

Mr. Gary Anandasangaree: In fairness, some of them are fairly large organizations. Some of them are international and have international scope—I don't want to name individual ones. There is a business case to be made for their having advisers who represent the communities and are from the communities.

I guess my question is, how do we have a culture in which there's an expectation, when your department deals with third party vendors, that they have an obligation, regardless of the dollars you have put on the table for training, to uplift and empower the communities?

• (0955)

Mr. Paul Thoppil: That's a very good question. Each has its own ways of engagement. The first nations having difficulties are, as you know, those in remote and isolated communities that don't have own source revenues. This is where they have a technical capacity issue.

Some accounting firms try to say that you can never find enough adequate people who will want to live there; even their own staff have issues about living there. In this area, they've come up with innovative solutions, such as a remote bookkeeping service using technology—like telemedicine, in another area—to see whether they can keep the payroll going and do the set of books with minimal engagement, and start that as the journey to financial accountability and sustainability.

Mr. Gary Anandasangaree: Isn't that the type of task, at an early starting point, to undertake to build capacity within the communities to do these things?

Mr. Paul Thoppil: Yes.

Mr. Gary Anandasangaree: Should the obligation not be with the third party managers to deliver longer-term sustainability and capacity for the communities?

Mr. Paul Thoppil: They can. They try to do so where they can. Some are not so focused on that as on just trying to get the job done.

There is also the Aboriginal Finance Officers Association, which is also involved in trying to help where they can.

The Chair: I'm going to ask the committee whether you'd like to continue the questioning, so that we finish the full round, or cut it short to 60 minutes. I believe we started at about 9:00, but we have time, because we don't have a second panel.

Shall we continue the questioning?

Some hon. members: Agreed.

The Chair: All right, that's what we'll do.

The questioning goes to MP Viersen.

Mr. Arnold Viersen (Peace River—Westlock, CPC): Thank you to our guests for being here this morning; it's much appreciated.

In your opening comments you said the study is very timely. I was a bit confused as to why we're doing this particular study. Could you elaborate on why you think this is timely? There were a number of other things I was hoping we were going to study first.

Why is this timely? How would you like to see the third party management or the levels changed? If you're saying it's timely, you must have some recommendations for this, or directions for us to go in. Perhaps you could point us in the direction of one of the big issues you see with all of this policy, about which you could say, "if you could look into this particular area, there may be a gap in the policy that we need to deal with".

Mr. Paul Thoppil: I think it's timely because I don't believe there is any one place where all the good ideas are in order to address the issues related to the policy. We want to take advantage of the expertise that this committee will bring to bear in dealing with witnesses and have a report that we can use in our conversations on establishing this new fiscal relationship with first nations.

We don't profess to know it all. We think this robust, noble body will be able to do some excellent work that we can take advantage of. We say it's timely because we're in the middle of these conversations now. We're very anxious to take the outcome of your findings and incorporate them in our conversation with the Assembly of First Nations.

Mr. Arnold Viersen: You're the organization that has to deal with this on a daily basis; 142 different organizations are currently in some level. It looks like most of them are in this self-appointed.... I was just looking through the list.

Is there an area that you would like us to look at in particular? Perhaps I can make a suggestion, and you can corroborate that. Is the lack of movement in a positive direction, in terms of going from third party management backwards, an area that needs some addressing, or is it something else?

Mr. Paul Thoppil: We don't profess to doing this right. There are a number of things that can be examined. As we said, the policy is based on trying to avoid intervention, the most intervention on the third party. Are we doing it right? I don't know. We would like the outside reflection to be, "No, you're not being proactive enough in getting them out." We're willing to accept that criticism along with solutions to do that.

Our minister is very focused on indigenous-led institutions rather than INAC in order to do that work. Is that potentially a road to avoid this whole situation whereby we're out of that business and an indigenous-led institution is part of that? We would be consistent with the minister's direction. We'd be interested to know whether the committee feels a culturally centric institution should be doing it rather than INAC.

I take Mr. McLeod's point again on band support funding and capacity development and whether our budget, our professional and institutional development, is adequate, given the needs, given the number of communities that don't have own source revenues, that are remote and isolated communities, and whether that's sufficient. It's really hard to get qualified, technical people in those communities to begin with, across any level of competency.

• (1000)

Mr. Arnold Viersen: One other thing I noticed is that it's not only communities or first nations that are in some level of management. It's also organizations. What would be the reason that you would place an organization under some sort of third party? What would be the need? For me, it's a third party organization that's not directly related to a community. Why would we be giving them any funding if they don't have good accounting processes?

Mr. Paul Thoppil: Thank you for flagging something that I didn't highlight in my remarks, which is that the default prevention and management policy is to be applied against any organization that INAC transfers funding to. It's not first nations centric. That is based on the Treasury Board transfer payment policy, which is that we have a fiduciary responsibility—

The Chair: Very quickly.

Mr. Paul Thoppil: —to ensure that the recipient has the capacity to take the dollars. However, sometimes those recipients are carrying out essential services. If we don't fund it through them, then how are

we going to suffer those community members who have an impact on that? That's the balance.

The Chair: Thank you. Very good.

The blinking light is just relating the fact that the day has started at the House of Commons.

The question now goes to MP Bossio.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Once again, I thank all of you for being here today and initiating this study.

In September 2016, there was an article released in *The Globe and Mail* about work that was being done in Thunder Bay involving Crupi Consulting. They committed fraud on \$1.2 million of public money for work they were doing with a number of first nations around third party management.

They've been charged and they've been removed from this particular project, but yet they're still on the list to be allowed to continue to apply to future third party management possibilities, or co-management possibilities.

The first question is, how does it happen that they can still be allowed on the list when a Joe Crupi committed this fraud?

Mr. Paul Thoppil: What transpired in that situation was incredibly tragic. It just shows the fragility of our federal government procurement processes. Notwithstanding the national RFP and trying to get qualified people to go through the gate and the review, we can have somebody who still gets selected who actually undertook something that terrible. It's still on the list and we are engaging with PSPC to take it off the list as soon as possible. As we discovered this situation, we have not actioned any usage of this firm for any other purposes going forward. So while it's unfortunate that they are superofficially on the list, there's no utility of that firm benefiting any further.

Mr. Mike Bossio: Is this study looking at this whole model of third party management and the DPMP, and the utility of it in the first place as a model, as to whether it should even be continued or find some other model of accountability?

Mr. Paul Thoppil: This is where I'm very excited about this pilot project I mentioned in my opening remarks with the First Nations Financial Management Board. It's an example of innovation whereby we are not doing it, but we are working through an indigenous centric institution that has financial street cred and credibility to work with selected first nations that are in third party and want another way out. Five first nations, four in Manitoba and one in B. C., out of the 10 as of this date, have opted to try to go through this pilot project. It's still fairly early on, but I'm very hopeful that this may be an example of another model that you are citing.

•(1005)

Mr. Mike Bossio: The government provides funding for numerous programs out there. Are you aware of this model existing in a situation for non-indigenous funding, where the government would have this DPMP type of model and would apply a third party management function when a non-indigenous organization is in default or abusing funding parameters?

Mr. Paul Thoppil: Our policy, as I said in my opening remarks, is a derivation of the Treasury Board transfer payment policy, which all departments that have to transfer funds—whether to indigenous or non-indigenous organizations—have to respect. The issue with first nations communities is that they have to carry quasi-statutory essential services to their citizens. It's not like other situations, where you can flow money through another medium. If a non-indigenous organization were doing something inappropriate, you could just cut them off and then maybe find an alternative. In this situation, it's fairly unique. How else do you flow education, income assistance, assisted living, very standard social services infrastructure elements in order to keep that community going when the governance has fallen—

The Chair: Thirty seconds.

Mr. Paul Thoppil: —or there are financial issues or mismanagement or they are in default in terms of accumulated effect? It's a unique circumstance.

Mr. Mike Bossio: What levels of funding are available right now? You said there were funding dollars for training. How many dollars are actually there to provide training, and does that meet the need?

Mr. Serge Beaudoin: The professional and institutional development program that was mentioned earlier is a \$9.3-million program. In addition to that, the department for this year has prioritized an additional \$4 million that is specifically targeted at communities that have management action plans in place to help them increase their capacity in the areas of governance.

Mr. Mike Bossio: Is that because of a recognized insufficiency of funds for that need?

Mr. Serge Beaudoin: It's to make it a priority and to help move communities out of default.

The Chair: Thank you.

Our final questions will be coming from MP Saganash.

[*Translation*]

Mr. Romeo Saganash: Thank you, Madam Chair.

I want to comment on my last exchange with Mr. Beaudoin.

I think, at the third level of intervention, it's very cruel to force aboriginal communities to determine where they'll draw resources from to pay for what's happening to them. Most communities already have a lack of income and resources. Even so, they're forced to determine where they'll take money from to pay for the intervention. Strictly speaking, I find this cruel. I really wanted to bring this issue up.

Mr. Thoppil, I was struck by the conclusion of your presentation document, which says

[*English*]

In closing, each of the challenges I have noted reflects a real policy concern in the context of a renewed relationship with Indigenous Peoples that will be important for this Committee to consider.

[*Translation*]

A number of points were raised in this paragraph. It refers to challenges, policy concerns and renewed relationships with indigenous peoples. We must take all these points into consideration in our report. That's what you're saying. I want you to elaborate on this.

•(1010)

[*English*]

The Chair: You have one minute.

Mr. Paul Thoppil: If we are going to truly move forward in a spirit of reconciliation, respect, and tone of relationship with first nations communities and all indigenous organizations, one can argue that the default prevention and management policy, notwithstanding its derivation from the Treasury Board transfer payment policy, comes across as a.... Some people will say it is a continuum of that colonial way of engagement with first nations. This is where we need to assess whether the current policy is consistent with that.

How do you go about ensuring for the 96% of the population when we're transferring funds for essential services and trying to close the socio-economic gap, the fact there is a financial accountability for the recipient who is receiving that funding? And if they're not doing well, how do we try to do it in a way that is not seen as a colonial way of engagement?

That's our challenge. This is where we're excited about what the committee can do in providing some good suggestions.

The Chair: Thank you very much.

That concludes our rounds of questioning.

If my list is right, we're looking for four pieces of information from the department.

We have MP Mike McLeod asking on deficits for indigenous communities.

Mr. Paul Thoppil: Was it deficits on band support funding levels—which is what I thought it was—as opposed to deficits of the organization?

My understanding was you were concerned about the level of deficits on the band support funding aspect of the community.

Mr. Michael McLeod: I wanted to know how many communities were in a deficit situation.

Mr. Paul Thoppil: Overall.

The Chair: Whether they're a reserve or not; indigenous communities.

Mr. Paul Thoppil: I see. I thought it was just on band support level.

Okay. We can do that.

The Chair: MP Cathy McLeod asked for a spreadsheet on timelines of third party management and how that was moving through the spectrum.

She also asked for an update on a study on a particular community.

Do we have the name of that community? I think you have it.

Mr. Paul Thoppil: Yes, we have that.

The Chair: I'm so sorry. To those who are listening, please forgive me.

I have a request from MP Yurdiga that we have a table about the qualifications of third party managers. I'm wondering if you could expedite that for the next time the committee meets.

Ms. Renetta Siemens: That's fine.

The Chair: That would be great.

We don't have to hold it back. If something is taking longer than expected, we would take the information as quickly as possible. We don't expect this study to be very long procedurally, but we want to get the information in.

Thank you so much.

Mr. Paul Thoppil: Thank you very much.

The Chair: We need to suspend for a couple of minutes to get set up, and then we have some committee business.

[Proceedings continue in camera]

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