

First Nations and Métis Relations

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Main points

The Department of First Nations and Métis Relations (Department) administers certain aspects of the Agreement between the Government of Saskatchewan and the Federation of Saskatchewan Indian Nations (FSIN) over Gaming (commonly referred to as the Gaming Framework Agreement). For the year ended March 31, 2007, the Department paid \$42.3 million to four community development corporations and the First Nation Trust (administered by FSIN). The Gaming Framework Agreement requires this money to be spent for specific purposes. The Department is charged with making certain that the First Nations Trust and the community development corporation use this money as the Agreement intends.

The Department's processes to monitor spending of the community development corporation are working. However, we continue to report concerns that the Department needs to better monitor spending of the First Nations Trust. Although the Department is entitled to and requests each year, it has not received from the Trust the necessary independent audit report on whether money the Trust receives is properly safeguarded and spent for the proper purposes. Without this report, the Department does not know if the Trust is spending money as required.

Also, the Department needs to complete its performance plan and human resource plan. These plans are important so that the Department can track and report on its progress, have better information to make decisions, and be more accountable.

Introduction

In this chapter, we provide a brief overview of the mandate and spending of the Department of First Nations and Métis Relations (Department) and set out the results of our 2007 audit of the Department. Also, we provide an update on a recommendation previously made by the Standing Committee on Public Accounts.

Background

The Department works with First Nations and Métis people and their organizations to advance common interests and improve social and economic outcomes of Aboriginal people. The Department's role is to provide leadership within the Provincial Government to help ensure First Nations and Métis priorities and issues are reflected in the Provincial Government's policies and programs. It also helps the Government to fulfill its obligations for treaty land entitlement.¹

The Department's website contains its annual reports, performance plan, other key publications, agreements, and further information about its programs. It is located at www.fnmr.gov.sk.ca.

Related special purpose fund

The Department is responsible for the Métis Development Fund (also called Clarence Campeau Development Fund). The Fund has a December 31 year-end. Each year, the Fund gives the Legislative Assembly its annual audited financial statements. These are publicly available at www.gov.sk.ca/finance.²

Our 2007 Report – Volume 1 reported the results of our audit of the Métis Development Fund.

¹ 2007–2008 Saskatchewan Provincial Budget Performance Plan: First Nations and Métis Relations, Government of Saskatchewan, p. 2.

² The Fund's statements are included in the Compendium to the "Public Accounts Documents".

Overview of the Department's finances

For the year ended March 31, 2007, the Department had revenues of \$0.25 million (2006 - \$0.18 million). In addition, it spent \$59.8 million (2006 – \$48.3 million). The following lists its major programs and spending.

	<u>Original Estimates³</u>	<u>Actual</u>
	(in millions of dollars)	
Central management and services	\$ 1.7	\$ 1.7
Policy coordination and support for Aboriginal organizations	5.4	6.0
Treaty land entitlements	14.8	9.8
Gaming agreements	<u>29.2</u>	<u>42.3</u>
	<u>\$ 51.1</u>	<u>\$ 59.8</u>

The Department's 2006-07 Annual Report explains reasons for significant differences between its planned and actual revenues and expenses.

Audit conclusions and findings

In our opinion, for the year ended March 31, 2007:

- ♦ the Department had adequate rules and procedures to safeguard public resources and comply with authorities governing its activities except for the matters reported in this chapter
- ♦ the Department complied with authorities governing its activities relating to financial reporting, safeguarding public resources, revenue raising, spending, borrowing, and investing except for the matter reported in this chapter

³ *Public Accounts 2006-2007: Estimates* – First Nations and Métis Relations Vote 25, Government of Saskatchewan.

Better monitoring of First Nations Trust spending needed

In our past reports, we reported that the Department needed to better monitor spending by the First Nations Trust⁴ to ensure money it provides is spent as required by law. The Standing Committee on Public Accounts last discussed this matter on April 17, 2007.

Under the 2002 Gaming Framework Agreement between the Government and the Federation of Saskatchewan Indian Nations, the Department provides the First Nations Trust with money that must be spent only for the following purposes for First Nations and First Nations people: economic development, social programs, justice initiatives, education and education facilities, the development and operation of recreational facilities, senior and youth programs, cultural and spiritual development, the development and maintenance of community infrastructure, health initiatives, governance activities, Treaty protection, and any other charitable purpose.

In 2006-07, the Department provided \$28.3 million (2005-06 – \$22.5 million) to the First Nations Trust. Under the 2002 Gaming Framework Agreement, the Trustees are required to provide the Department with certain information each year.⁵ The Department needs this information to determine whether the money it provided to the First Nations Trust is spent for the purposes intended.

As shown in Exhibit 1, the Department has never received key independent audit reports on whether the Trust is fulfilling the conditions of 2002 Gaming Framework Agreement. Audit reports would provide the Department with an independent assessment as to whether the Trust's processes operate properly and whether the Trust spends the money it receives from the Department as required by law. Without this key information, the Department does not know if the Trust is spending money as required by law.

⁴ The Federation of Saskatchewan Indian Nations set up the First Nations Trust in July 2003 and as a result its first year-end was March 31, 2004. The Trust is not subject to audit by the Provincial Auditor.

⁵ Required reports include: audited financial statements, audit report on adequacy of processes and whether money is spent for required purposes, copies of management letters issued by the auditor of the First Nations Trust along with the Trust's response, and Trust's annual report.

Exhibit 1

	Received reports for Trust's year ending March 31, 2006 ⁶	Received reports for Trust's year ending March 31, 2005	Received reports for Trust's year ending March 31, 2004
An independent audit report on the following: <ul style="list-style-type: none"> whether money received by the Trust has been fully accounted for and properly disposed of, and the rules and procedures applied are sufficient to ensure an effective check on the receipt and allocation of the money received by the Trust, and the money expended by the Trust was for the purposes outlined in the agreement⁷ 	no the report received from the Trust auditor did not reach a conclusion on these matters	no the report received from the Trust auditor indicates that they could not reach a conclusion	no the report received from the Trust auditor indicates that they could not reach a conclusion

Furthermore, the Department has received information that suggests that the Trust may not have or may not be spending the money as required by law.

For example, in 2005, the Trust had advised the Department that the Trust did not have proper processes to allow the Trust to know if it was spending money properly and that it had plans to put in appropriate processes. In 2005-06, the Trust advised the Department of changes to its processes (i.e., it would require each First Nation that received money from the Trust (beneficiary) to engage its auditors each year to express an independent audit opinion on the appropriateness of its receipt and use of money received and whether it used the Trust money for the permitted purposes). The Trust further noted that it would withhold further money from beneficiaries that would not provide the required audit reports or whose reports noted matters of non-compliance.

The Trust advised the Department that, at September 23 2006, audit reports for the year ended March 31, 2006 submitted by 60 of the 75 beneficiaries reported compliance and the remaining 15 beneficiaries had not submitted the required audit reports. Because the Trust did not receive audit reports from the remaining beneficiaries, it could not know if these beneficiaries spent money it provided as required by law.

⁶ First Nations Trust reports for the year ending March 31, 2007 were not available at August 2007 as these reports were not yet due to be submitted to the Department.

⁷ 2002 Gaming Framework Agreement between the Government and the Federation of Saskatchewan Indian Nations, section 5.01.

In another example, in 2005, certain members and the then council of a First Nation entered a Statement of Claim⁸ against the Trust alleging it made payments to a certain individual for purposes other than those specified under the 2002 Gaming Framework Agreement. The Department was aware that this First Nation received money from the Trust in 2005-06 and had not provided the Trust with the required audit report for the year ended March 31, 2006. The Department was also aware that the Trust was withholding money from this First Nation until it submitted the required audit report. At August 2007, the Department had not determined the validity of the claim. No further legal action was taken on this claim as at August 2007. As our Office does not have access to the books and records of the Trust or the related First Nation, we could not examine the transactions in question.

The Department has continued to work with the Trust to encourage timely correction of problems. It has also worked directly with the Trust to help the Trust better understand its role and information needs, and to identify ways to improve the quality and timeliness of information the Trust must provide the Department. However, unlike Trust's process with its beneficiaries, the Department's process did not set out the Department's expected actions in situations where the Department does not receive required audit reports from the Trust or where audit reports note matters of non-compliance.

1. We recommend that the Department of First Nations and Métis Relations:

- ◆ **require the First Nations Trust to submit, each year by an agreed upon date, an independent audit report on the following:**
 - **whether money received by the Trust has been fully accounted for and properly disposed of, and the rules and procedures applied are sufficient to ensure an effective check on the receipt and allocation of money received by the Trust**

⁸ Statement of Claim issued at Queen's Bench Judicial Center of Regina (Q.B.G. No. 1106 of 2005) on March 16, 2005.

- **whether the money expended by the Trust was for the purposes required by the applicable Agreement**
- ♦ **withhold (whole or in part) money due to the Trust until the Department receives required audit reports or, where an audit report notes matters of non-compliance, until the Trust takes appropriate corrective action**

Improvements to human resource plan needed

The Department needs to improve its human resource plan to ensure it has the right people, in the right jobs, when needed.

Chapter 19 of our 2006 Report – Volume 3 reports that the Department did not have a human resource plan and recommended that the Department prepare a human resource plan. The Standing Committee on Public Accounts agreed with that recommendation on April 17, 2007. In 2006-07, the Department developed its *Human Resource Plan 2007-08* (HR plan). We assessed the HR plan against the key elements of a good human resource plan as set out in the exhibit 2.

Exhibit 2

A good human resource plan would:

- ♦ set out priorities and human resource needs and should link to the strategic direction of the Department
- ♦ identify key human resource risks and competency gaps in current resources
- ♦ set out strategies and implementation plans to bridge competency gaps

We found that the Department's HR plan set out priorities and human resource needs linked to its strategic direction and described human resource risks, key human resource risks, general gaps in current resources, and strategies to address human resource risks. However, the HR plan did not adequately quantify its gaps in the current resources (e.g., number and types of positions with required knowledge and skills needed over mid to long term), or set out details for its strategies (e.g., assign timeframe or responsibility for

implementation and set out financial resources necessary for implementation).

- 2. We recommend the Department of First Nations and Métis Relations' human resource plan more clearly outline gaps in current resources (e.g., number and types of positions) and provide details on plans to implement strategies to meet human resource needs (including timeframes, responsibilities, and financial resources).**

Complete performance planning and reporting needed

Our 2006 Report – Volume 3 reports that the Department needs to complete the development of its performance plan including the identification of measures and selection of performance targets related to its goals and objectives. Having a complete plan is necessary so that the Department can report on its progress towards achievement of its objectives in its annual report.

During 2006-07, the Department worked on developing performance measures and making other improvements to its performance plan. The Department's 2007-08 Performance Plan includes performance measures for three of the four objectives that did not previously have measures. The plan notes that the Department has not yet developed performance measures for one of its eight objectives. In addition, the Department had not set targets for its performance measures.

We continue to recommend the Department complete the development of its performance plan including the identification of measures and selection of performance targets related to its goals and objectives.

The Standing Committee on Public Accounts agreed with the above recommendation on April 17, 2007.

