
Indian and Northern Affairs Canada

Annex C

Income Assistance On Site Compliance Review Process

1.0 Purpose

This directive provides national direction to assist the regions and their staff with the conduct of Income Assistance (IA) Compliance Reviews.

This directive helps fulfil Indian and Northern Affairs Canada's (DIAND/ the department) accountability requirements to Parliament as well as its obligations under the *Financial Administration Act* (FAA). It provides guidance to departmental staff on the expenditure of public monies, an essential managerial responsibility (e.g., section 34, FAA).

The objective of IA Compliance Reviews is to determine compliance with rates and conditions as set out in the department's regional Social Development/Assistance Policy and Procedures Manuals. This includes providing support to First Nations administering authorities in the effective and efficient operation of IA by promoting the utilization of the applicable provincial/territorial rates and conditions for IA, and by identifying the source of non-compliance to ascertain measures that can be taken to eliminate such problems in the future.

2.0 Scope

This directive applies to all compliance reviews on IA where the funding of IA is based on DIAND reimbursing to a recipient (i.e., in most cases a First Nation) the actual costs or expenditures associated with IA (referred to hereafter as a "reimbursement-of-actuals regime").

It applies to all DIAND employees as well as persons under contract to DIAND who conduct such compliance reviews and to all First Nations, Tribal Councils and other administering authorities who administer IA under a reimbursement-of-actuals regime.

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The directive will also be applied to determine the appropriate budget levels of First Nations proposing to enter into a fixed budget funding agreement from a reimbursement-of-actuals regime. Where funding levels of funding agreements are to be renegotiated, the directive will also be applied. In these cases, an IA compliance review may be part of a larger assessment of all services contained in the funding agreement.

The directive does not apply for the duration of funding agreements which have a fixed budget for IA or where the First Nation is renewing the agreement without seeking funding level adjustments.

3.0 Authorities and References

The FAA and accompanying Treasury Board regulations set out the Minister's authority with respect to the expenditure of public monies including grants and contributions.

The Treasury Board Authorities provided under the 1990 Increased Ministerial Authority and Accountability (IMAA)

4.0 Issuing authority

This directive is issued under the authority of the Assistant Deputy Minister, Corporate Services.

5.0 Definitions

Client: The head of household who applies (on behalf of themselves and their dependants) for IA and is accepted as eligible to receive IA based upon the eligibility criteria set out in the department's regional Social Development/Assistance Policy and Procedures Manuals.

Compliance Review: A review of the administration and operation of the IA program administered by the Recipient to ensure that the program is being administered in accordance with rates and conditions as set out in the department's regional Social Development/Assistance Policy and Procedures Manuals.

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Eligibility: Describes the requirements a client or recipient must meet in order to be entitled to receive funding through the department.

Funding Agreement: A document containing the terms and conditions by which a transfer payment is made by the Crown to a recipient for the delivery of programs and services by the recipient. Types of agreements include Contribution Arrangements (CA), Comprehensive Funding Arrangements (CFA), Alternative Funding Arrangements (AFA), Financial Transfer Agreements (FTA), Canada First Nations Funding Agreements (CFNFA), DIAND First Nations Funding Agreements (DFNFA) and Self Government Agreements (SGA)).

IMAA: Memorandum of Understanding (MOU) between The Department of Indian Affairs and Northern Development and The Treasury Board of Canada for Increased Ministerial Authority and Accountability.

Recipient: The IA administering authority issuing IA to clients. This can include a First Nation, a Tribal Council, or other third party acting on behalf of the First Nation or DIAND.

Reimbursement of Actuals Regime: Funding approach by which DIAND will reimburse the recipient for all eligible IA expenditures. Note this does not include any and all IA payments made by the recipient. It is restricted to eligible payments to eligible clients based upon the rates and conditions as set out in the department's regional Social Development/Assistance Policy and Procedures Manuals.

Remedial Management Process: A series of steps defined within a funding agreement to confirm and correct problems which come to exist or are arising, with respect to a recipient meeting its obligations under the funding agreement.

Terms and Conditions: Set out the obligations between the parties to a funding agreement. They may be contained within the funding agreement itself and other documents referred to within the funding agreement, such as the department's regional Social Development/Assistance Policy and Procedures Manuals.

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6.0 Policy Statement

The basic principles to be followed in the administration and monitoring of IA are as follows:

- a) IA is an income source of last resort;
- b) everyone has a right to apply for IA, however, in order to receive IA an applicant must be eligible;
- c) it is the applicant's responsibility to provide the necessary information to prove that they are eligible for IA and to demonstrate the level of the financial assistance required;
- d) it is the First Nations' responsibility (through their Chiefs and Councils and administrative staff) to manage IA in accordance with the applicable rules described in the department's regional Social Development/Assistance Policy and Procedures Manuals and to put in place accountability mechanisms on the management of IA to their members.

The purpose of conducting compliance reviews is to:

- a) enable the department to meet its accountability responsibilities to Parliament for the expenditure of public funds under section 34 of the FAA;
- b) determine and ensure compliance with rates and conditions as set out in the department's regional Social Development/Assistance Policy and Procedures Manuals or, where these do not exist, with the applicable provincial or territorial guidelines;
- c) provide support to First Nations administering authorities in the effective and efficient operation of IA.

6.1 Eligibility Criteria

Client eligibility criteria are set out in the department's regional Social Development/Assistance Policy and Procedures Manuals.

Recipient eligibility is determined by the funding agreement.

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7.0 Responsibilities

Except where otherwise indicated, the Regional Directors General are responsible for implementing this directive. This directive represents a standard which regions must implement. There is nothing in the directive which limits regions from exceeding (e.g., more frequent reviews, larger samples, etc.) the requirements of this directive, subject to the terms and conditions of the funding agreement. The Finance Branch at headquarters is responsible for the interpretation of this directive and for the insertion of any necessary changes.

8.0 Review process

8.1 In-Office Reviews

Manuals

A basic requirement of a complete compliance process is the existence of regional manuals that reflect the applicable provincial/territorial terms and conditions including rates and guidelines, subject to compatibility with federal legislation and DIAND's authorities for the general assistance program of the province or territory as set out in the IMAA.

Manuals Time Frame

- a) Regions have ninety (90) days from the date of provincially/territorially announced changes in terms and conditions, including rate changes, to update their manuals and advise First Nations of the changes.
- b) However, to the extent that the provincial/territorial changes are consistent with federal legislation and DIAND's authorities, the changes must be put into effect as of the same date as the provincial/territorial changes go into effect. Regions are to ensure that they have a mechanism in place to notify First Nations immediately of any such changes.

Verification of Ongoing Claims for Reimbursement

Regions are to ensure that their office procedures include a clearly defined process in the region to verify ongoing claims for reimbursement. This process must also include a notification process to advise First Nations of the reasons why any portion of the claim has not been

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reimbursed and what corrective action, if any, is required with respect to the refused amounts. This process can also include the cross referencing of data bases within the region to verify the eligibility of clients. Where DIAND itself is carrying out cross verification procedures between DIAND and provincial/other government departments databases, a Memorandum of Understanding (MOU) or some other agreement is required between the region and the province/other government department.

Where the supporting documentation is insufficient to substantiate the First Nation's claim for reimbursement, regions will not reimburse these First Nation expenditures until the supporting documentation has been received.

Financial Impact of Compliance Activity

Regions are to implement and maintain a system to capture and report on: the difference between First Nations claims for reimbursements and actual reimbursements (i.e. impact of in-office review); and amount recovered as a result of on-site reviews (if applicable).

8.2 On-Site Reviews

On-site compliance reviews should follow a process such as outlined below:

Notification to First Nation

First Nations are to be given written advance notice of an intended on-site review. Arrangements are to be made to ensure that the documentation required for the review as well as the appropriate First Nation staff and representatives are available to assist in the review and to be briefed on the findings of the review.

Review Team

The review team can be composed of DIAND employees, however, other means to complete the reviews are acceptable. The First Nations auditor, a third-party consultant, Consulting and Audit Canada, or other suitable persons or firm may be used to conduct compliance reviews.

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Pre-Meeting With First Nation

Upon arriving at the First Nation, the review team should brief the First Nation on the process and methodology to be followed for conducting the review and any follow-up action that may be required. At this time, if deemed appropriate, the review team should liaise with Chiefs and Councils as well as First Nation administrations.

Components of the Review

The review is to be composed of four distinct activities:

- a) review of case files;
- b) cross verification of data where indicated;
- c) an administrative review of the office practices of the First Nations administering authority and the associated accounting for payments made to or on behalf of eligible clients;
- d) a review of related activities or services such as housing.

File Review sample Selection

A systematic approach should be used in the completion of compliance reviews. Sampling may thus be used. However, the samples employed should ensure that the results are not unduly biased by the inclusion or non-inclusion of certain key individuals. (Appendix A outlines the sampling approach to be followed.) Follow-up on anomalies found during the region review may also be included.

File Review

- a) A complete case file must include the Application, Budget and Decision Sheet (B&D), and other documentation required to support the application. Keep in mind that the main purpose of the file review is to determine that an individual has, on the basis of the case file, received a proper payment, rather than to determine that the case file is perfectly maintained in all respects. Problems with the adequacy of the case file should be noted and reported to the administering authority.
- b) The file should also include a case-management plan (or files and notes to support decisions and payments made) together

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with evidence that the case worker has cross verified eligibility of the applicant/client and all dependants. (The absence of a case management plan is not a reason in itself to reject the reimbursement of the expenditure if the rest of the file is complete and correct.)

- c) If the file review identifies a non-compliant payment in the sample month, then other payments to the same or similar clients should be reviewed as necessary to determine the extent of non-compliance. Additional periods should be reviewed as appropriate.

Cross Verification

First Nations should take reasonable care in issuing IA benefits that they verify whether or not clients are already in receipt of provincial IA benefits, or are entitled to receive or are in receipt of Employment Insurance (EI), Old Age Security (OAS), or any other benefits which would reduce or eliminate eligibility for IA benefits. DIAND compliance activities should verify that such cross verification, where applicable, was carried out. For further details please refer to Appendix B.

Income Classification

In the review of client files, sources of income should be correctly identified. In particular, care should be taken that Chiefs and Councillors honoraria, less substantiated expenses, are counted as income for purposes of calculating social assistance entitlements.

Administrative Review

The administrative review is completed to assess the financial and administrative operations of the First Nations administering authority to ensure that they comply with acceptable office practices. The administrative review process is outlined in Appendix C.

Review of Related Programs

- a) The review team is to review the policies and records of programs which impact IA reimbursements. This includes but is not limited to First Nations housing and programs charging user fees for which the First Nation has been reimbursed under IA.

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- b) Where IA clients pay rents or user fees, it should be expected that these charges are charged and collected from all residents/households on the reserve at rates comparable to that charged to IA clients. Should the review team determine that this is not the case, then the First Nation's housing regime may not be compliant with DIANDs Housing Policy and remedial action must be considered.

On-Site Resolution of Non-Compliance

The First Nation should be given every opportunity to address and resolve on site any areas of non-compliance identified. The object is to minimize the number of follow-up items to the extent possible.

Debriefing

Once the on site review is finished and before leaving the site, First Nation staff and representatives are to be debriefed on the preliminary findings of the review. Where appropriate, Chiefs and Councils should also be debriefed on site. Written confirmation of these findings should also be provided to the First Nation. If necessary, a follow-up review should be done, using the same procedures as the first but covering only those problem areas identified in the first review.

In the **Ontario Region**, IA is administered by the Province of Ontario. Compliance reviews are carried out by the Province under provincial legislation. The Ontario Region is to ensure that the terms and conditions of the 1965 Ontario Indian Welfare Agreement are adhered to and that provincial reviews meet the objectives of this directive.

8.3 Appeals and Records***Appeals***

Where the First Nation wishes to appeal decisions made during monthly verifications or on-site compliance reviews, such appeals should use the normal appeal process in the region.

Maintenance of Records

In order to facilitate compliance monitoring and the processing of appeals, First Nations should maintain clients case files for at least three years after payments are made.

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8.4 Refusal of Access

Refusal of a First Nation to permit access to the files so that the on-site review can be completed will result in the immediate application of remedial action as permitted under the terms and conditions of the funding agreement with the First Nation. Such remedial action will continue in effect until the on-site compliance review has been completed.

8.5 Remedial Action

- a) Where the findings of the review identify items or areas of non-compliance, the First Nation is to be given a reasonable period of time to take remedial action to correct these items. The length of time to be provided to the First Nation to take corrective action is dependant upon the extent of the non-compliance problem.
- b) Depending upon the extent of non-compliance, the First Nation can be requested to provide copies of the missing or incomplete documentation. Alternatively, the region may arrange a follow-up visit to assess the corrective action taken on all the files identified as not being in compliance during the original review.
- c) If corrective action has not been taken by the First Nation, the region is to initiate recovery of the payments to the First Nation for all files not in compliance for the extent of payments which are not in compliance. The recovery period is not limited to a set time period. Recovery actions are to be based upon the time the non-compliance began. Recovery is to be limited to only those files which have been reviewed. If, at any time, the compliance team identifies significant or systematic errors during the review, the sample should be expanded, if necessary to 100 percent, if anomalies warrant such an expansion. The First Nation is not to be reimbursed for clients where the file review for that client indicated non-compliance, until such time as the First Nation has demonstrated that the file is in compliance.
- d) In cases where there is evidence of a possible criminal act, the region shall consult with or refer such cases to the proper police authorities. Such action in itself does not

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prove a possible criminal act. It is an action to ensure that the evidence is considered by those mandated under law to consider such information in accordance with due process of law. (Refer to the February 26, 1998, letter from the Transfer Payments Directorate, Finance Branch, headquarters, entitled "Management of Allegations Involving First Nations".)

- e) Where cases have been referred to the police, and once the police and crown attorney have indicated that such activities will not jeopardize the police investigation and/or potential prosecution, regions should continue with remedial action as set out in above paragraphs a) to c). Regions should consult with the police authorities on an ongoing basis on cases which have been referred to the police.

8.6 Frequency

On-site compliance reviews of every First Nation funded under a reimbursement-of-actuals regime are required at least every two years in all regions except British Columbia where they are required every three years.

The departmental compliance methodology is composed of a review and verification of ongoing claims for reimbursement supplemented by periodic on-site reviews of these transactions. As stated in the Scope (Section 2.0), this does not apply to First Nations which have a fixed budget or where a First Nation is renewing its funding agreement without seeking funding adjustments.

The review and verification of ongoing claims for reimbursement are part of an effective compliance regime. This activity may result in the identification of First Nations which should be subjected to further reviews as a result of anomalies in the ongoing claims.

8.7 Reporting

Regions are to report annually on their compliance activity results from the prior fiscal year. This reporting will normally take place in the first quarter of the fiscal year through the performance indicator exercise.

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9.0 Enquiries

Enquiries relating to this directive should be addressed to the Director, Resource Management and Reporting Directorate, Finance Branch, Headquarters.

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APPENDIX A

File Review Sample Selection

Further to the sampling reference in section 8.2, a two-tier sampling methodology can be employed to ensure that the results of the review are not unduly biased by the inclusion or non-inclusion of individuals that would distort the findings of a sample. The samples are described as follows:

Sample 1 - A 100 percent sample of Chiefs and Councils, and band employees. While these individuals may qualify for IA, experience has shown that where they are included in a random sample, the results of the review may be distorted if, as a result of the random sample, individuals from this group are over or under-represented. In order to avoid any distortion which would invalidate the findings of the review, this group is to be sampled at 100 percent as a separate sample.

Sample 2 - The balance of the files will be sampled on the basis of the sampling methodology developed by the Corporate Information Management Directorate (CIMD) of DIAND as contained in the paper entitled "Program Review for Social Assistance: sampling Guide" dated October 1995.

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APPENDIX B***File Review Cross Verification***

First Nation cross verification activities may include, but are not limited to, confirming eligibility by cross referencing with:

- * Such lists or databases as the Post Secondary Education (PSE) list (departmental policy precludes an individual from receiving IA if they are in receipt of PSE funding), the list of children in care and the list of foster parents, the list of children receiving an Elementary/Secondary living allowance, etc.
- * Provincial IA databases and other provincial lists such as workers compensation plans.
- * Federal databases such as Employment Insurance (EI), Old Age Security (OAS), Guaranteed Income Supplement (GIS), etc.
- * Pension plans such as the Canada Pension Plan (CPP) and Quebec Pension Plan (QPP).

These activities refer to the administering authority (i.e., First Nation). Where the case worker has specific knowledge that the client and dependants are not in receipt of, or eligible for benefits from another source, this must be noted on the file with the explanation and is subject to verification by the review team. The review team is to confirm that the file contains the appropriate cross verifications and conduct sufficient tests to confirm that the cross verifications have in fact been performed.

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Administrative Review

The administrative review is completed to assess the administering authority's financial and administrative operations.

A general question that should be asked is, do the financial and administrative procedures comply with acceptable office practices? To this end the review team should review the most recent financial audit and program review reports.

- A) The administering authority's financial management processes should include the following:
- * cheque and bank reconciliation processes
 - * preparation of monthly statistical, expenditure, reimbursement, and cheque/cash reports to council and (where applicable) to DIAND
 - * documentation of personnel with the authority to sign cheques, issue IA payments, prepare reimbursement reports, and reconcile accounts, bank statements and cheques
 - * availability of financial audit and program review reports
 - * a clearly defined appeal mechanism which includes a method by which applicants are made aware of their right to appeal
- B) The general office administration practices should include the following:
- * secure and complete client files, including:
 - application forms
 - Budget and Decision sheets (B&Ds)
 - client agreements to release information
 - housing/shelter costs
 - special needs back-up information
 - an indication that the reported income and EI payments are verified
 - other
 - * availability and easy access to an up-to-date department's regional Social Development/Assistance Policy and Procedures Manuals and rate schedules, including all related interpretative material
 - * a welfare organization chart and job description

Note: The Program Guide, along with the most recent Recipient Reporting Guide, which contains the INAC reporting forms and instructions, can be accessed on the INAC extranet site at:

http://www.ainc-inac.gc.ca/dci/dcilog_e.asp, password: bc.

Effective immediately, all Income Assistance & Assisted Living forms can be downloaded, printed and saved from the FNSDS web site at

<http://www.fnsds.org/> If an administering authority would prefer to receive a CD with forms, please contact Gwen John, Training Coordinator at 1-800-991-7099 or gwen@fnsds.org or by faxing a request to 604-926-4152.