

ASSEMBLY OF FIRST NATIONS
FIRST NATIONS LABOUR MARKET STRATEGY
DRAFT FOR DISCUSSION – NOT FOR DISTRIBUTION
ISSUE PAPER 2 – The Relationship: End Game

DESCRIPTION: To set out the relationship between AFN (including stakeholders and First Nation Governments) and ESDC for the ongoing delivery of FNLMS that reflects Nation-to-nation, government-to-government relations and respects First Nation Government and stakeholder responsibility and their experience in addressing the labour market issues of First Nations.

Because it is both the right thing to do and a certain path to economic growth, the Government will undertake to renew, nation-to-nation, the relationship between Canada and Indigenous peoples, one based on recognition of rights, respect, co-operation and partnership. (SFT)

Nation-to-nation, Government-to-Government relations are based on First Nations constitutional rights to self-determination and respect the autonomy of First Nations to make key decisions in areas concerning them so that priorities, policies and programs are culturally sensitive and appropriate in their setting, design and delivery and that they are ultimately effective.

OPTIONS:

1. Establish an “LMDA-like”, government-to-government, arrangement: provinces and territories have signed contribution agreements with ESDC for the delivery of labour market programs and services (and received the transfer of ESDC staff and related operating resources). While similar in form to AHRDAs and ASETS agreements requiring results-based accountability and annual audited statements the reality is that P-Ts are unfettered and deliver their own programs in their own manner through their own service delivery mechanisms. LMDAs are not “monitored” and provincial AGs prepare the Financial Statements.
2. Develop an evolutionary approach, that draws on the Minister’s delegation authority where ESDC pushes ahead with implementing the full scope of the Treasury Board (TBS) Policy on Transfer Payments (PTP), working with a First Nation Secretariat, resourced so as to be a credible and capable interlocutor, and implementing a range of agreements (like INAC, SET and FLEX agreements) based on First Nation capacity and risk
3. Create a statutory approach reflects the desired relationship and First Nation autonomy of decision making as well as predictability, stability and long term funding for FNLMS. A statute would action the Government’s policy intent creating momentum for change within the system and moving from “discretionary”, policy based support for labour market funding to support founded in law.

RATIONALE:

The new relationship desired by First Nations and the Government should not just be reflected in policy development but also in the long term program delivery.

At the policy level, despite the 25-year history of Aboriginal employment strategies, ASETS agreements are little different than other contribution agreements with not-for-profit agencies and do not reflect the desire of First Nations for autonomous decision

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making and building effective institutions offering quality employment programs and services to First Nations. The accountability to the funder pushes out accountability to their members.

At the operating level, FNLMA's have 25 years of experience in delivering employment programs and services to members. They wish to move out from the paternalistic, micro-managed relationship where ESDC personnel provide little value-added and remain in a checklist culture. Despite a results-based accountability regime, the relationship remains largely compliance-based. Rules are often arbitrary, applied differently and dysfunctional frustrating program policy objectives. A client-centred focus and community-based programming are not at the centre of the relationship with ESDC.

CONSIDERATIONS:

Even though LMDAs and ASETS agreements were intended to be similar in their implementation, the relationship is not the same. Without some other change engine, it is not evident what could bring about a Government-to-Government type arrangement.

INAC appears to moving resolutely to implement the flexibilities of the TBS PTP with a range of project dedicated, flexible and block funding instruments and streamlining. Feedback on this effort from the First Nation point of view would be essential before seeking to emulate this model and approach.

A Statute could possibly encounter resistance within the bureaucracy. The purpose would need to be clearly established. Otherwise, PCO will maintain that the ESDC minister already has the authority to implement programs and does not need a statute to establish a new relationship.

Institution building (capacity) needs to be a policy objective if the new relationship is to become real. Devolution of responsibility requires capacity and strong, stable, innovative First Nation institutions. Failure to support institution building is the flip side of the paternalistic relationship.

RECOMMENDED OPTION:

A Statute would best telegraph the goal of change to the bureaucracy and all the partners in the system establish First Nation Governance mechanisms over the FNLMS as well as support goals of predictability, stability and long term finding.

DECISION:

DATE AND VERSION:

Draft 2, November 23, 2016