



**Affaires autochtones et
Développement du Nord Canada**

**Aboriginal Affairs and
Northern Development Canada**



First Nations Financial Transparency Act

Presentation to AFOA Saskatchewan

October 3, 2013



BACKGROUND

- In the 2011 Speech from the Throne, the Government committed to “support transparency for First Nations communities by requiring chiefs and councillors to publish their salaries and expenses”
- Financial information from First Nations is provided to AANDC pursuant to funding agreements, but many members of First Nations communities are not able to access such information directly from their leaders
- The purpose of the *First Nations Financial Transparency Act*, is to provide the transparency needed for First Nations citizens to hold their leadership accountable
- The bill received Royal Assent on March 27, 2013
- Work is under way to plan for the effective implementation of the bill



THE ACT ...

- Applies to the 582 First Nations that are *Indian Act* bands, but not to First Nations that are party to a comprehensive self-government agreement
- Applies to any financial year of the First Nation that begins *after* the bill receives Royal Assent
- Requires First Nations governments to prepare annually audited consolidated financial statements and schedules of remuneration and expenses paid to chiefs and councillors
- Requires First Nations governments to make these documents available to their members and publish them on a website within 120 days of the end of their fiscal year
- Requires the Minister to also publish these documents on the AANDC website “without delay after the First Nation has provided him or her with those documents or they have been published...”
- Reinforces the existing accountability measures of funding agreements for non-compliant First Nations governments



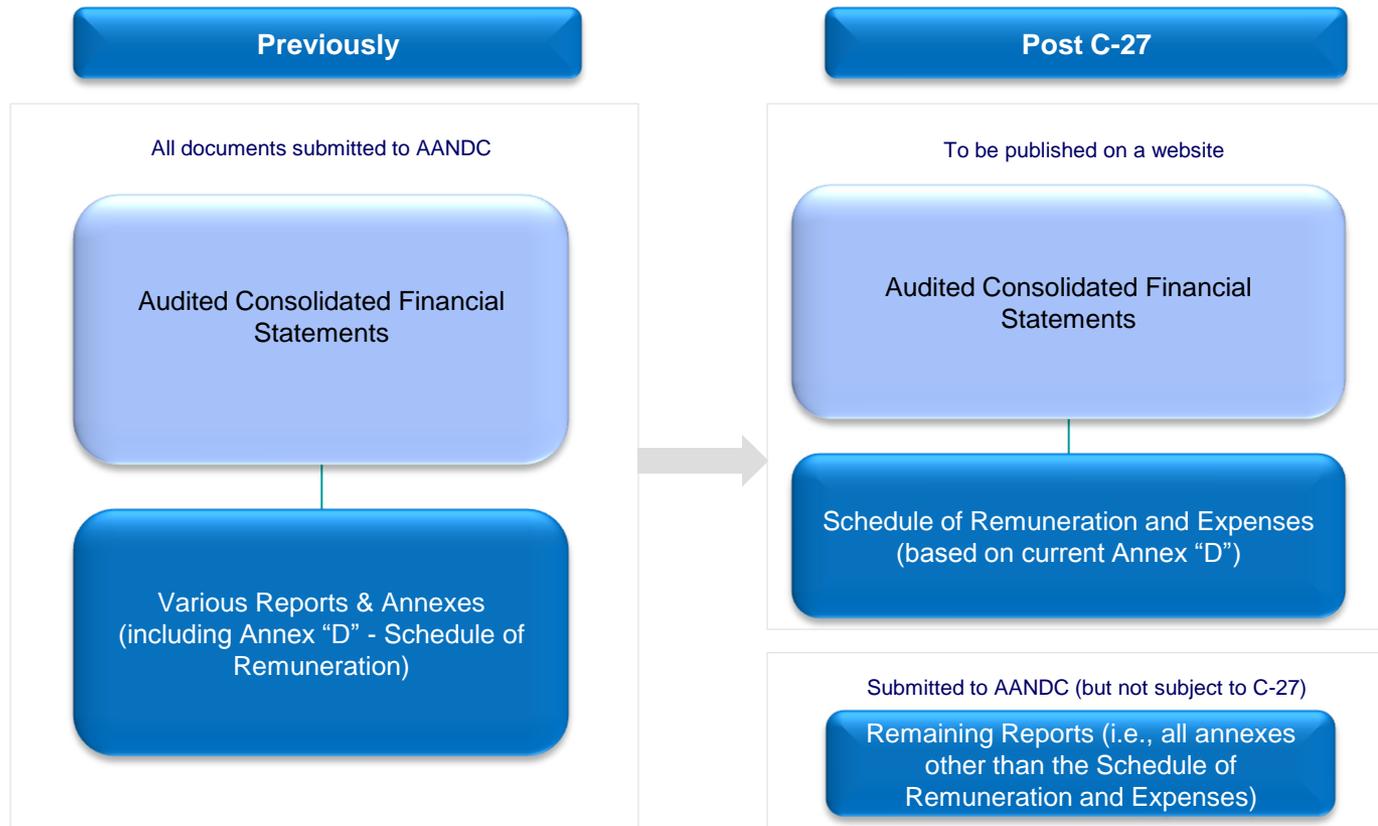
WHAT HAS CHANGED?

<i>Before</i>	 <i>Now</i>
First Nations governments are required to prepare and submit to Canada audited consolidated financial statements pursuant to funding agreements	A <u>legislated</u> requirement to prepare audited consolidated financial statements and schedules of remuneration and expenses for chiefs and councillors, similar to the standard followed by other governments in Canada
The only recourse available to First Nation members wanting access to their First Nations financial statements is through the Minister	Financial information must be made available to the membership <u>and</u> published on a website, and will <u>also</u> be published on the AANDC website
Insufficient clarity in the guidelines and timeframes that apply to what information is to be made available, by whom, when and how	Legislated rules based on public sector accounting standards



IMPROVED ACCOUNTABILITY ...

... but with no new reporting requirements





Audited Consolidated Financial Statements

- The *Act* states that ...

5(1) “A First Nation must maintain its accounts and prepare its consolidated financial statements annually in accordance with generally accepted accounting principles, the primary sources of which are the handbooks — including the handbook respecting public sector accounting — of the Canadian Institute of Chartered Accountants, or its successor, as they are amended from time to time.

(2) A First Nation’s consolidated financial statements must be audited, in accordance with the generally accepted auditing standards of the Canadian Institute of Chartered Accountants, or its successor, by an independent auditor who is a member in good standing of a corporation, institute or association of accountants incorporated under an Act of the legislature of a province.

- As of April 1, 2012, financial statements are comprised of the following financial statements:

Statement	Purpose
Statement of Financial Position	Present the financial position of an entity at a specific date
Statement of Operations	Present the changes of statement of financial position items during the year (e.g. revenue less expenses)
Statement of Changes in Net Debt (Surplus)	Presents if expenditures are met by revenue during the year
Statement of Remeasurement Gains and Losses (2016 only)	Present the variation in unrealized and realized gains and losses during the year
Statement of Cash Flow	Present the changes in cash during the year



Schedule of Remuneration and Expenses

- The *Act* further states that ...

6. (1) A First Nation must annually prepare a document entitled “Schedule of Remuneration and Expenses” that sets out, separately, the remuneration paid and the expenses reimbursed to its chief and each of its councillors — acting in their capacity as such and in any other capacity, including their personal capacity — by the First Nation and by any entity that, in accordance with generally accepted accounting principles, is required to be consolidated with the First Nation.

(2) The schedule does not form part of the consolidated financial statements.



FAQs

Q. Do First Nations have to publish the individual financial statements of band-owned businesses?

A. No.

- The *Act* requires that the audited consolidated financial statements of First Nation governments be prepared annually and disclosed to community members and the public.
“consolidated financial statements” means the financial statements of a First Nation — prepared in accordance with generally accepted accounting principles — in which the assets, liabilities, equity, income, expenses and cash flows of the First Nation and of those entities that are required by those principles to be included are presented as those of a single economic entity, as if the First Nation were a government reporting on its financial information.
- These audited consolidated financial statements of the First Nation would include, at an aggregated level, information relating to any entities which, according to generally accepted accounting principles, are to be consolidated with the First Nation, such as band-owned businesses.
- The *Act* does not require the individual financial statements of band-owned businesses to be published.



FAQs

Q. Why do the financial statements of band-owned businesses need to be publically disclosed? Won't this undermine their competitiveness? Do non-Aboriginal businesses need to do this?

A. The *Act* puts into place the same rules that apply to businesses owned by other governments in Canada. These rules are developed not by the government, but by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants, which are referred to in the *Act*.

- The *Act* requires that an aggregated summary of the value and activities of the businesses that are consolidated into the financial statements of the First Nation be published.
- This does not mean, however, that each individual business owned by the First Nation will need to publish its own detailed set of financial statements.
- Instead, it is only the consolidated financial statements of the First Nation to which the *Act* will apply which are highly aggregated and all scenarios we have come across do not reveal any proprietary information.
- However, even this summary information will provide readers of the statements with a better understanding of the activities of First Nation governments and the value of their holdings.



FAQs

Q. Is remuneration of Chief and Council Members earned from Band-owned businesses captured and reported and if so why?

A. Yes.

The schedule of remuneration and expenses would need to include any monetary and non-monetary benefits received by a chief or councillor from any entity which, according to generally accepted accounting principles, is to be consolidated with the First Nation (including government business enterprises).

- The schedule of remuneration and expenses captures any monetary or non-monetary benefits earned by chief and council as a result of their activities in their communities.
- Many First Nations establish corporations that are partially or wholly-owned by the First Nation. Chiefs and Councillors can serve as directors of Band entities, such as band-owned businesses, and as such may receive a per diem, or reimbursement of expenses, or some other remuneration.
- Given that the Band itself is the owner of the corporation, and such corporations may be sole-source providers to the Band, the legislation makes it that members be provided with an accurate and complete picture of the remuneration received by elected leaders.



FAQs

Q. What if a First Nation does not have a website to post the required documents?

A. The *Act* requires First Nation governments to publish its Audited Consolidated Financial Statements and Schedule of Remuneration and Expenses on the internet.

8. (1) A First Nation must publish the documents referred to in paragraphs 7(1)(a) to (d) on its Internet site, or cause those documents to be published on an Internet site, within 120 days after the end of each financial year.

(2) The documents referred to in subsection (1) must remain accessible to the public, on an Internet site, for at least 10 years.

Because not every First Nation has a website, a community may request that another organization, such as a First Nation organization, or even AANDC, post the information on its behalf.



FAQs

Q. Are First Nations still required to make copies available to its members?

A. Yes.

Publishing the documents on a website does not fulfill the obligation held by a First Nations government to make copies available to its members.

8 (3) Publishing any document on an Internet site is insufficient to discharge the First Nation's duty to make copies of it available to its members who request that document

This may be achieved, for example, by distributing printed copies to all community households, and/or posting the information in readily accessible locations in the community including at the First Nation band offices.



FAQs

Q. What is AANDC doing to ensure that First Nation members are able to understand the information presented in the financial statements?

A. AANDC has developed materials written for First Nation members, and the general public, which help to explain some of the key elements of financial statements, and where to find basic information that is of most interest to First Nations members.

These materials have been reviewed by a number of AFOA chapters across the country, and their feedback has been incorporated.

These materials will be available for distribution, and will also be made available on the AANDC website.