

Canada's Fiscal Approach for Self-Government Arrangements

Treaties and Aboriginal Government
Aboriginal Affairs and Northern Development Canada

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Canada's Fiscal Approach for Self-Government Arrangements sets out a policy framework for the provision of federal financial support to Aboriginal Governments which have entered into Self-Government Arrangements. This release of the "Fiscal Approach" marks an important change as Canada is now setting out its policy and funding methodologies publicly rather than treating them as confidential negotiating mandates. The policy set out here does not bring an end to discussion of these issues. Instead, this marks the beginning of a more open and transparent approach to fiscal relations, based on ongoing engagement with representatives of Aboriginal Governments and negotiating groups, provinces and territories.

Development of this policy has been informed by the experience with several decades of implementing fiscal arrangements in support of self-government and modern treaties, and a growing awareness of the challenges presented as the number of self-governing Aboriginal communities increases. Key changes reflected in this policy – the decision to adopt a more transparent approach and to modify key terms of the own source revenue and funding methodologies – are in response to feedback heard at engagement sessions with Aboriginal Governments, negotiating groups, provinces and territories during 2011 and 2012.

Canada remains committed to honouring the terms of its agreements with Aboriginal Governments and working constructively with their representatives to discuss fiscal arrangements, and to consider potential improvements to the policy and the funding methodology over time. To that end, Canada will invite Aboriginal Governments, advanced negotiating groups, and affected provinces and territories to participate in an ongoing advisory process to discuss this policy and related fiscal matters associated with Aboriginal self-government.

Canada's Fiscal Approach for Self-Government Arrangements

1. The Government of Canada recognizes the inherent right of self-government as an existing right under section 35 of the *Constitution Act, 1982*, and that negotiations among governments and Aboriginal peoples are the most practical and effective way to establish the terms upon which self-government will be exercised, and the manner in which governments will work together. This is reflected in Canada's *Inherent Right Policy*, released in 1995, which sets out the general policy framework within which Canada's envisions Aboriginal Governments and institutions exercising the inherent right of self-government. Over recent decades, Canada and Aboriginal groups have negotiated and reached agreement on a wide range of Self-Government Arrangements, setting out a wide array of Aboriginal Government jurisdictions or authorities.
2. Negotiated Self-Government Arrangements are given effect through a variety of mechanisms, including legislation and legally binding agreements, and can provide for comprehensive self-government (removing the Aboriginal group out from under the operation of most aspects of the *Indian Act*), or sectoral self-government (where the focus is on a particular jurisdiction or authority such as education).
3. This policy is intended to apply to all Aboriginal Governments that have entered into the following Self-Government Arrangements:
 - 3.1 a comprehensive land claim agreement which includes a comprehensive self-government component constitutionally protected as treaty rights under section 35 of the *Constitution Act, 1982*;
 - 3.2 a comprehensive agreement on self-government;
 - 3.3 a sectoral self-government agreement that focuses on a particular governance jurisdiction or authority; or
 - 3.4 a legislated comprehensive Self-Government Arrangement.
4. Canada is committed to ensuring that self-government continues to be a foundation for strengthened and renewed relationships with Aboriginal peoples, and believes that the effective implementation of self-government can be a critical factor in the long-term success of Aboriginal Governments and their communities.
5. This document sets out Canada's policy going forward on the financing of Aboriginal Governments - and forms part of the policy framework that was first articulated in the *Inherent Right Policy*. The policy set out here is effective from the date of its release.
6. This policy statement does not create or imply any financial or funding obligation on the part of Canada. Canada makes no specific commitments to provide funding to any Aboriginal Government. The fiscal arrangements between Canada and each Aboriginal Government, and in some cases, the respective province or territory, will be addressed in fiscal agreements between them. Canada intends that all applicable elements of the policy would be reflected in those agreements.

7. Canada will implement this federal policy on the financing of Aboriginal Governments in a manner that is consistent with existing treaties and self-government agreements. In addition, Canada intends to rely on this policy to guide its approach to the renewal of fiscal agreements in effect prior to the introduction of this policy. Those agreements will not be displaced but will remain in effect until the end of their terms. Any federal funding will be subject to parliamentary appropriation.
8. Where the methodologies outlined in this policy result in funding levels for an Aboriginal Government that are materially different from those set out in a pre-existing fiscal agreement, Canada may be prepared to consider transitional measures. Canada will seek to address this through the negotiation of a new fiscal agreement.
9. Canada will consider any proposal by an Aboriginal Government to replace a pre-existing fiscal agreement before the completion of its term with a new fiscal agreement or arrangement that conforms to the new policy.

Principles of Canada's Fiscal Approach

10. In Canada's view, self-government fiscal relations should be guided by the following principles:
 - 10.1 Aboriginal, federal and provincial/territorial governments share responsibility for financing self-government.
 - 10.2 In sharing this responsibility, these governments should seek to ensure that members of the communities represented by Aboriginal Governments have access to public programs and services that are reasonably comparable to those available to other Canadians living in communities of similar size and circumstance, although they need not be identical in all respects.
 - 10.3 To undertake their responsibilities, Aboriginal Governments should receive reasonably consistent and equitable allocations of federal funding support under reasonably stable, predictable and flexible arrangements.
 - 10.4 Governments should practice transparency and openness in fiscal matters - in particular, through public disclosure of funding methodologies, transfers, budgets and financial statements.
 - 10.5 Fiscal arrangements should foster accountability, clarity of roles and responsibilities, and sound public administration.
 - 10.6 Fiscal arrangements should encourage efficiency and cost-effectiveness, and take into account the differing circumstances of communities including their size, location and accessibility.
 - 10.7 Fiscal arrangements should be affordable and consistent with the policies of the Government of Canada.
11. To address these principles, it will be important to (i) take account of the full set of programs and services made available to Aboriginal community members from all governments; (ii) ensure funding and own source revenue (OSR) methodologies are applied consistently and

equitably, and (iii) provide more transparency of funding methodologies, OSR provisions and transfers.

12. It will be important for Canada to ensure that it provides a fair and equitable allocation of available federal resources among Aboriginal Governments, using a methodology that is responsive to regional variations and the specific circumstances of each Aboriginal community.
13. The federal approach to the financing of Aboriginal Government will be addressed within a common national framework, where the methodology used to determine fiscal transfers to all Aboriginal Governments is transparent and applied in a broadly consistent manner while still respecting the individual circumstances of each Aboriginal community.
14. Canada's fiscal approach is flexible with respect to the program responsibilities an Aboriginal Government assumes and the service delivery mechanisms employed. The commitment to flexibility will be an important part of the evolving fiscal relationship that Canada has with Aboriginal Governments.
15. Canada welcomes the participation of provincial and territorial governments in supporting self-government fiscal arrangements in a manner consistent with their respective jurisdictions and responsibilities. Canada will work with the provinces and territories to ensure appropriate arrangements are in place to support self-government most effectively within their respective areas of responsibility.

Honouring Existing Commitments

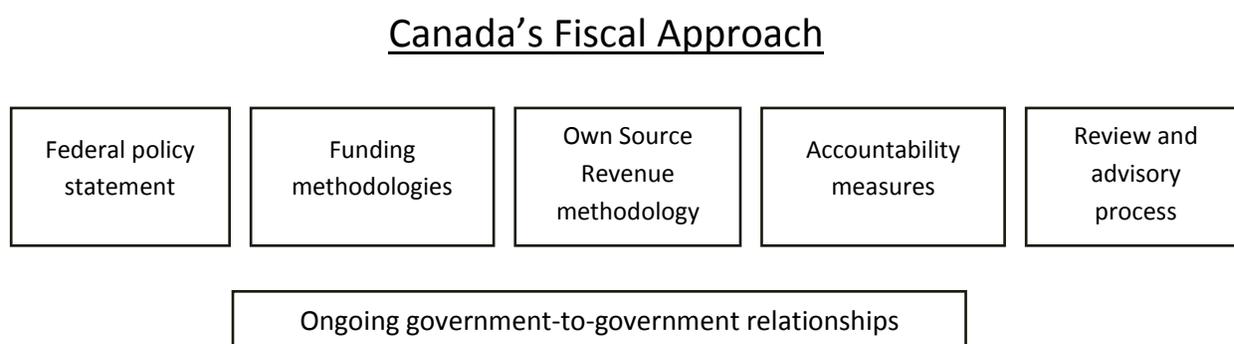
16. To date, Canada has negotiated more than twenty Self-Government Arrangements across the country. Most of these Self-Government Arrangements set out that the parties will periodically negotiate and seek to reach agreement on fiscal agreements that address funding and own source revenue matters. The Self-Government Arrangements generally frame the scope of these periodic fiscal negotiations, setting out what should be taken into account in those negotiations. While the specific provisions in each Self-Government Arrangement vary, overall the key principles and concepts in those Arrangements are broadly consistent and have also been reflected in Canada's policy as set out here.
17. Canada will honour and comply with the terms of existing Self-Government Arrangements. A comprehensive national approach to fiscal arrangements is intended to provide consistent policy principles and terms for fiscal relations with all Aboriginal Governments in a manner that does not diminish the commitments under a given Self-Government Arrangement.
18. Therefore, where it has agreed to do so, Canada intends to continue to negotiate fiscal agreements with Aboriginal Governments. Federal negotiators will be guided by federal fiscal policy described herein, but will address, on a case by case basis, situations in which the terms of a particular Self-Government Arrangement cannot be fully addressed through the funding methodology set out in this policy.

Key Elements of Canada's Fiscal Approach

19. Canada's Fiscal Approach has five key elements: (i) a public statement of federal policy, (ii) funding methodologies, (iii) OSR methodology, (iv) accountability measures and (v) ongoing advisory and review process (see figure 1).

20. **Federal policy** – Through the release of this federal policy statement, Canada seeks to ensure that Aboriginal Governments are fully apprised of the basis on which Canada assesses the level of federal funding support for Aboriginal Governments across the country. The objective is that Aboriginal Governments and other Canadians should be better able to understand why and how decisions are being made about the financing of Aboriginal Governments.
21. **Funding methodologies** – As part of this public policy, the methodologies employed to determine federal funding support are more transparent. At the present time, governance funding has the most explicit formula based methodology, while other methodologies are largely based on underlying program funding authorities, or existing funding levels.
22. **OSR methodology** – The treatment of an Aboriginal Government’s OSR capacity in determining its contribution towards Aboriginal Government costs is an integral part of this policy.
23. **Accountability measures** - To meet the commitment to transparency and accountability, Canada will issue an annual public report on fiscal arrangements with Aboriginal Governments and Canada will continue to require public accountability and reporting by Aboriginal Governments.
24. **Review and advisory process** – It is anticipated that Canada’s policy approach to the financing of Aboriginal Governments will evolve over time. To facilitate regular review of the policy, Canada proposes to implement an advisory process with representatives of Aboriginal Governments, provinces and territories, to discuss self-government fiscal arrangements.

Figure 1. Elements of Canada’s Fiscal Approach

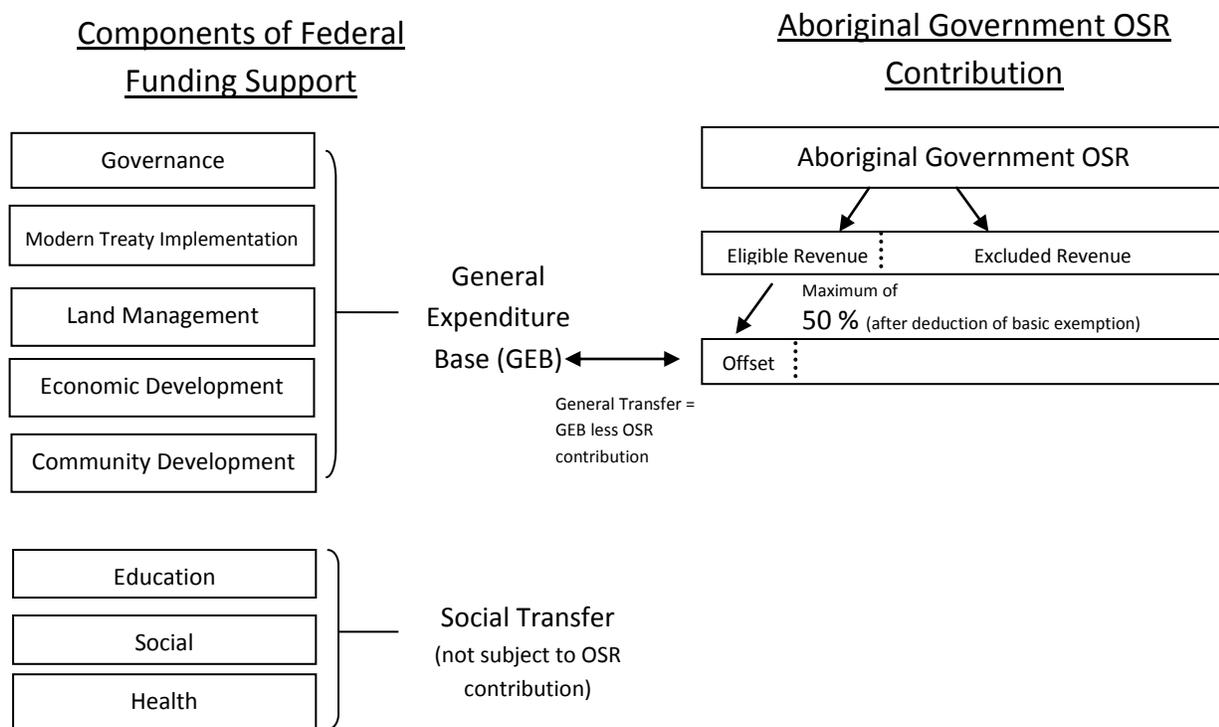


The Fiscal Transfer Model

25. Canada’s fiscal transfer to an Aboriginal Government is the sum of the “General Transfer” plus the “Social Transfer” – The “General Transfer” may be offset in respect of the Aboriginal Government’s OSR contribution, while the “Social Transfer” is not subject to offset. Further, the total federal fiscal transfer will not be less than a “Transfer Floor”. These main elements are:
 - 25.1 the “General Expenditure Base” is the sum of federal funding to support activities in relation to Governance, Modern Treaty Implementation, Land Management, Economic Development and Community Development. This base may also include, where applicable, other funding elements that may be agreed to;

- 25.2 the “OSR Contribution” is a contribution from the Aboriginal Government’s OSR to the costs associated with the General Expenditure Base;
- 25.3 the “General Transfer” is equal to the amount by which the General Expenditure Base exceeds the OSR Contribution;
- 25.4 the “Social Transfer” is the sum of federal funding to support program and service funding for Health, Education and Social Development (this transfer will not be reduced by an OSR Contribution); and
- 25.5 the “Transfer Floor” is a minimum amount for the fiscal transfer regardless of the calculation of the above elements.

Figure 2. The Fiscal Transfer Model



Components of Federal Funding Support

- 26. Canada’s funding support for Aboriginal Governments will vary depending on the specific Self-Government Arrangement, and on the program and service responsibilities assumed by the Aboriginal Government under their agreement. Federal funding support thus may include some or all of the components noted below.
- 27. The methodologies that Canada relies on to assess its funding support vary for individual components: some are set out in formula, while others are based on the federal program funding authorities that are currently in place (i.e., available to Indian Bands or Inuit communities that do not have Self-Government Arrangements in place). Over the long term, Canada expects to

develop more formula-based methodologies and incorporate those into renewals of this policy with such changes discussed through the advisory and review process (as contemplated in Paragraphs 54 and 55) prior to their adoption. Current funding methodologies for the components listed below are set out in Annex A.

Governance

28. Governance funding is provided so that Aboriginal Governments have resources to sustain a level of core governance capacity essential to governance operations (e.g., legislative and executive decision making and general government administrative services) similar to other governments in Canada in comparable circumstances, as well as the resources to fulfill incremental responsibilities and activities that pertain to Aboriginal Governments.

Modern Treaty Implementation

29. Where, in addition to the Self-Government Arrangement, the Aboriginal Government has negotiated a modern treaty, Canada may provide funding support through a fiscal agreement to assist the Aboriginal Government to perform activities associated with obligations under that agreement.¹

Land Management

30. Canada may provide funding to support to an Aboriginal Government to manage interests in land and other natural resources as contemplated in the terms of their self-government agreement or modern treaty.

Economic Development

31. Canada may provide funding support to an Aboriginal Government for programs in the pursuit of economic development opportunities and initiatives.

Community Development

32. Canada may provide funding support to an Aboriginal Government for elements such as: facility operations and maintenance; capital; the planning, design, construction, upgrading and renovation of housing; and the maintenance and improvement of the health and safety of infrastructure and housing.

Education

33. Canada may provide funding support to an Aboriginal Government to provide access to primary and secondary education services to their service population.
34. Canada may provide funding support to an Aboriginal Government to provide financial assistance and other services to members of its service population who are pursuing post-secondary studies.

¹ In some cases, funding for such activity may be provided through other funding instruments (e.g., an implementation plan).

Social Development

35. Canada may provide funding support to an Aboriginal Government for social development programs and services, including those addressing: basic needs and special needs; adult care; family violence; and disabilities. Funding may also cover service delivery costs.

Health

36. Canada may provide funding support to an Aboriginal Government for health programs and services, such as: a community health liaison; addiction services; the promotion of the health and well-being of children; supporting or enhancing mental health; pre-natal nutrition; and other health programs.

Other funding support

37. In addition to the funding elements outlined above, Canada may provide funding support to an Aboriginal Government for other programs and services.

Own Source Revenue (OSR) Methodology

38. Canada's approach to self-government fiscal arrangements includes a mechanism for offsetting fiscal transfers from Canada based on the Aboriginal Government's fiscal capacity to contribute to the costs of self-government from its own source revenues (OSR).
39. OSR is the revenue that an Aboriginal Government derives from taxation, fees and charges, resource revenues or business, property and other income. Under Self-Government Arrangements, the contribution of Aboriginal Governments from own source revenues is taken into account by way of an offset or reduction in the fiscal transfer – the "OSR Contribution".
40. In addition, OSR arrangements should, as much as practicable:
 - 40.1 be based on the capacity to generate revenues rather than actual revenues collected;
 - 40.2 promote decreasing reliance upon fiscal transfers over time as the Aboriginal Government's capacity to raise OSR increases, leading to greater self-sufficiency on the part of the Aboriginal community;
 - 40.3 maintain incentives for Aboriginal Governments to generate and collect revenues;
 - 40.4 provide for consistency in treatment of Aboriginal Governments;
 - 40.5 ensure that provincial and territorial governments' incentives to provide fiscal benefits to Aboriginal Governments are not diminished; and
 - 40.6 include appropriate measures to facilitate the transition to self-government.
41. In light of the above, certain revenues may be excluded from consideration in the calculation of OSR. Current exclusions are identified in Annex A.

42. The OSR contribution will not be applied against transfers for education, social development or health (i.e., those funding elements set out in A25-A32 of Annex A). Therefore, OSR arrangements will not be required for education, social development or health sectoral agreements where core governance has not been included.

Accountability Measures

Accountability and Agreements

43. A strong accountability framework is an essential feature of this fiscal approach. Canada expects to include in fiscal agreements:
- 43.1 A clear identification of the program and service responsibilities assumed by the Aboriginal Government, including: (i) the programs and services for which the Aboriginal Government assumes responsibility and accountability, and (ii) where applicable, any relevant program and service responsibilities of a signatory province or territory;
 - 43.2 provisions to ensure timely and comprehensive information-sharing, including data collection and verification; and
 - 43.3 provisions requiring the Aboriginal Government to publicly disclose financial and other performance information.
44. As part of the fiscal agreement, financial responsibility and accountability for delivery of agreed-upon programs and services will be transferred from Canada to the Aboriginal Government. Funding will be provided in a grant providing the Aboriginal Government with the flexibility to reallocate funding to meet its priorities as long as any agreed-upon program standards are met.²
45. Funding may be provided to entities other than an Aboriginal Government (such as an Aboriginal health agency, school board or other entity) to support delivery of particular services in the communities where the Aboriginal Government has jurisdiction. Canada may seek to implement such arrangements – while ensuring that there is no duplication or gaps in such funding – in order to promote the most efficient and effective mechanism for serving the population. In such cases, the Aboriginal Government may work directly with that entity to ensure services meet community needs.
46. Aboriginal Governments and their community members will remain eligible to apply for programs or services for which the Aboriginal Government has not assumed responsibility under a fiscal agreement or other arrangement. Provinces and territories will also have a role in supporting Aboriginal community members, whether they reside on “Aboriginal Government Lands”³ or other communities.

² Even though some aspects of funding may be based on respective *Indian Act* program funding, the Aboriginal Government will be free to design programs or services subject to the standards set out in the fiscal agreement.

³ For the purpose of this policy, unless otherwise indicated, “Aboriginal Government Lands” refers to lands over which the particular Aboriginal Government has general governance jurisdiction.

Accountability, Reporting and Information Sharing

47. Canada requires that Aboriginal Governments establish clear and effective accountability and reporting mechanisms, in particular with respect to public disclosure of financial information. Accountability instruments will include agreements with individual Aboriginal Governments, provinces or territories to clarify the roles and responsibilities of respective governments under self-government, and understandings with provinces and territories on respective roles in self-government overall.
48. As reliable data will be integral to the operation of the funding methodology, information provided by Aboriginal Governments, such as annual OSR reports and demographic data, will be essential in implementing the funding methodology so that it accurately accounts for actual conditions in Aboriginal communities and is responsive to changes in circumstances.
49. The nature of the reporting requirements should reflect the scope and scale of Aboriginal Government's operations.

Aboriginal Government Reporting

50. Aboriginal Governments will be expected to publicly disclose, on an annual basis:
 - 50.1 budgets – annual estimates of revenues and expenditures by each major category; and
 - 50.2 audited consolidated financial statements – statements prepared in accordance with the appropriate accounting standards approved by the Chartered Professional Accountants of Canada or its successor. These statements shall disclose information similar to governments of similar scale with similar responsibilities.
51. If the Aboriginal Government delegates any part of its responsibilities to an agent in respect of its program and service responsibilities under the Self-Government Arrangement or fiscal agreement, the Aboriginal Government will disclose related expenditures by the agent in the audited financial statements of the Aboriginal Government, where appropriate.
52. In addition, as appropriate, Aboriginal Governments will be encouraged to publish additional information, including performance reports and program evaluations.

Federal Reporting

53. Canada will publish annually, and make publicly available, an accounting of the fiscal transfers to Aboriginal Governments.

Advisory and Review Process

54. It is anticipated that Canada's policy approach to the financing of Aboriginal Governments – set out in this Fiscal Approach – will be reviewed and renewed periodically.
55. Canada will invite representatives from Aboriginal Governments, advanced negotiating groups, provinces and territories to participate in an advisory process or forum – national in scope – which will provide a venue for ongoing dialogue about the changing circumstances and fiscal needs of Aboriginal Governments and for discussion about Canada's Fiscal Approach. Canada

is prepared to work collaboratively with Aboriginal Governments, provinces and territories to develop terms-of-reference for an advisory process.

56. In addition to an advisory process, the parties to each Self-Government Arrangement will maintain separate implementation committees and related processes to address agreement-specific issues.

Annex A: The Fiscal Transfer Model – Detailed Terms

- A1. This Annex sets out the methods used to determine levels of fiscal transfers from Canada to Aboriginal Governments⁴ including:
 - A1.1 Governance – applicable to Aboriginal Governments, depending on scope of self-government responsibilities;
 - A1.2 Modern Treaty Implementation – applicable where the Aboriginal Government has concluded a land claim or modern treaty agreement;
 - A1.3 Programs and Services – different elements will apply depending on the responsibilities assumed by the Aboriginal Government;
 - A1.4 Terms of Agreements and Annual Funding Adjustments;
 - A1.5 Aboriginal Government Own Source Revenue (OSR) Contributions; and
 - A1.6 Determining the Fiscal Transfer for individual Aboriginal Governments.
- A2. Canada’s policies regarding self-government fiscal arrangements will be reviewed and renewed periodically through a process that is informed by the perspectives of representatives of Aboriginal Governments and affected provinces and territories. Any changes will be reflected in subsequent versions of this policy.

Governance

- A3. Aboriginal groups that have implemented Self-Government Arrangements may be provided with Governance funding. Numerous factors may influence Governance costs and are considered in the design of the Governance funding methodology. These factors include, among others: (i) fixed and variable costs; (ii) scope and degree of program and service responsibilities; and (iii) geographic circumstances (e.g., remoteness and environmental conditions).
- A4. Ongoing Governance funding is the sum of two sub-categories: Core Governance and Incremental Administrative Functions. Incremental funding associated with governance of program and service elements may also be provided (as set out in respective sections below).
- A5. The ongoing Governance funding amount is intended to replace related governance funding provided under the *Indian Act* (e.g., Band Support Funding, Tribal Council Funding, etc).

⁴ For the purpose of this Annex, an Aboriginal Government is defined as the government with which Canada has established a direct fiscal relationship through one of the following Self-Government Arrangements: a comprehensive land claim agreement which includes a comprehensive self-government component constitutionally protected as treaty rights under section 35 of the *Constitution Act, 1982*; a comprehensive agreement on self-government; a sectoral self-government agreement that focuses on a particular governance jurisdiction or authority; or a legislated comprehensive Self-Government Arrangement.

Core Governance

- A6. Canada may provide Core Governance funding to an Aboriginal Government where the Self-Government Arrangement provides for the function and operation of the Aboriginal Government outside of the legislative regime of the *Indian Act*. Core Governance funding is intended to ensure that Aboriginal Governments have financial resources to provide the essential functions of a self-governing entity such as: legislative and executive functions, general government administration and services, financial and human resources management, legal and professional advice, insurance, and elections.
- A7. The calculation for the Initial Core Governance amount is presented in Equation 1 with respective fixed and variable funding elements, below. The initial fixed amount is the amount of funding transferred to the Aboriginal Government irrespective of population size. The variable amounts of funding are a function of population, with declining per capita amounts at set thresholds to reflect economies of scale in governance activities.
- A8. The population figure used in the Core Governance calculation is the population of registered Indians or Inuit that reside on the land over which the Aboriginal Government exercises governance jurisdiction or authorities, except where a different measure of population is prescribed by the underlying Self-Government Arrangement.
- A9. Where a Self-Government Arrangement sets out that a number of Aboriginal communities will aggregate and be represented by a single government (e.g., a central and subsidiary governments representing separate communities), the Core Governance funding is equivalent to the sum of Core Governance funding amounts calculated for each community separately.

Equation 1. Initial Core Governance Funding Calculation (\$2014)

$$\text{Initial Core Governance Funding} = \overset{\text{Fixed Amount}}{\downarrow} f + \overset{\text{Variable Amounts}}{\downarrow} \left[(v_1 \times Pop_1) + (v_2 \times Pop_2) + (v_3 \times Pop_3) \right]$$

$f = \$220,000$ Fixed amount

$v_1 = \$1,300$ Per capita amount for the **first 400 people** (Pop_1)

$v_2 = \$400$ Per capita amount for the population **in excess of 400 and up to 5,000** (Pop_2)

$v_3 = \$220$ Per capita amount for the remaining population **in excess of 5,000** (Pop_3)

Adjustment of Core Governance for Geographic Circumstances

- A10. Canada recognizes that geographic circumstances, including remoteness and environmental conditions influence governance costs. Canada provides increments to Band Support Funding to Indian Bands under the *Indian Act* context to address these factors. Governance funding for self-

governing Aboriginal groups will incorporate an adapted form of the same methodology, using AANDC’s current remoteness and environmental factor indices⁵ as set out below:

Equation 2. Geographic Circumstances Adjustment of Core Governance funding

$$\text{Adjusted Core Governance Funding} = CG_i \times (1 + (0.2 \times R_i) + (0.1 \times E_i))$$

- CG_i = Initial Core Governance Funding
- R_i = Remoteness Index for community “i”
- E_i = Environmental Index for community “i”

Funding Cap

A11. The total amount provided in respect of Core Governance may not exceed 44% of the total federal program base for which the Aboriginal Government assumes responsibility under a Self-Government Arrangement. In the territories, the base for this calculation may also include expenditures by the territorial government for programs which benefit the Aboriginal Government’s communities.

Incremental Administrative Functions

A12. Incremental Administrative Function funding may be provided to address the costs of internal dispute resolution and local enforcement, and public works inspections, as follows:

Table 1 – Incremental Administrative Functions (\$2014)

	Base Amount	Variable Amount
Internal Dispute Resolution and Local Enforcement	\$44,000 plus \$450 per person, to a maximum of \$220,000	2.0% of eligible program funding for Education, Social Development, Economic Development and Land Management
Public Works Inspections	\$22,000 plus \$55 per person, to a maximum of \$44,000	4.0% of eligible program funding for operations and maintenance and minor capital

A13. **Internal Dispute Resolution and Local Enforcement** – Where the Aboriginal Government assumes responsibility for Core Governance and responsibility for at least one education, social development, or economic development program, Canada may provide funding for internal dispute resolution and local enforcement.

⁵ The Band Classification Manual assigns remoteness and environmental factors for each Aboriginal community based on its proximity to major service centres and its geographic latitude. The remoteness factor addresses factors such as increased travel, transportation and shipping costs; the environmental factor relates the geographic location of the band to the local climate and addresses factors such as the increased costs (e.g., light, heat) of service delivery. Remoteness index values range from 0.00 for urban Aboriginal groups, to 1.85 for the most remote groups. Similarly, environmental index values range from 0.00 for southern Aboriginal groups to 4.72 for the most northern groups.

A14. **Public Works Inspections** – Where the Aboriginal Government assumes responsibility for Core Governance and responsibility for operations and maintenance or minor capital, Canada may provide funding for public works inspections.

Self-Government Start-Up

A15. In addition to the ongoing governance funding set out above, Canada may provide one-time (or time-limited) funding to address start-up costs associated with the transition into self-government. Typically, these amounts would be transferred in advance of the effective date of the modern treaty or Self-Government Arrangement.

A16. Not all one-time self-government costs will apply to all groups transitioning into self-government. The applicable activities and the amounts to be contributed by Canada in respect of these activities must be set out in the implementation plan or other agreement that accompanies any Self-Government Arrangement.

A17. Canada may provide Self-Government Start-Up funding support for the following:

A17.1 preparation and passage of an initial body of core laws: e.g., laws related to elections, citizenship, financial administration, constitution and procedures of government, conflict of interest, administration of justice, public service, land management and environment;

A17.2 preparation and passage of initial laws for a sectoral agreement;

A17.3 public communication and consultation: information and consultation processes with members of the Aboriginal group, residents of neighboring communities, business partners, and officials of the relevant provincial, territorial and municipal governments regarding the implementation of the Self-Government Arrangements;

A17.4 orientation training: training activities related to governance, such as the development and delivery of training workshops focused on general orientation for new government structures, special financial management training, and specialized technical training related to new jurisdictions; or

A17.5 other one-time costs: specific to individual circumstances related to the implementation of the Self-Government Arrangement.

Modern Treaty Implementation

A18. Canada may provide funding for an Aboriginal Government that is also a signatory to a modern treaty to support that government's activities in meeting its obligations as set out in the treaty.

A19. Federal funding will be based on an assessment of the specific activities associated with a modern treaty. Elements common to most such agreements may be addressed through generalized funding methodologies. Canada may seek to develop a new formula or methodology to determine the funding levels for treaty management or land claims implementation.

Programs and Services

A20. Over the long term, Canada may seek to develop new formulas or methodologies to determine the funding levels for programs and services.

Land Management

A21. Where the Aboriginal Government takes responsibility for Land Management for their Indian Reserve(s) or where a treaty or self-government agreement provides that the Aboriginal Government has responsibility over Aboriginal Government Lands, Canada may provide funding at a level equivalent to the amount provided under the First Nations Land Management regime (FNLM), as it may be amended and changed over time.

Economic Development

A22. Canada may provide Aboriginal Governments with funding for economic development programs at levels which are based either (i) by reference to federal program funding authorities as currently in place (i.e., available to Indian Bands or Inuit communities that have not entered into a Self-Government Arrangement); or (ii) at existing levels provided under an expiring fiscal agreement.

A23. In addition, where the Aboriginal Government has assumed responsibility for economic development, Canada may provide additional funding to assist the Aboriginal Government to develop and sustain an internal capacity for policy functions related to economic development.⁶

Table 2 – Economic Development – Policy Function Funding (\$2014)

Base Amount	Variable Amount
\$55,000 plus \$275 per person, to a maximum of \$165,000	2.0% of Economic Development program funding

Community Development

A24. Canada may provide Aboriginal Governments with funding for minor capital and operating and maintenance at levels which are based either (i) by reference to federal program funding authorities as currently in place (i.e., available to Indian Bands or Inuit communities that have not entered into a Self-Government Arrangement); or (ii) at existing levels provided under an expiring fiscal agreement.

⁶ Amounts are calculated on a per-Aboriginal Government (rather than per-community) basis, i.e., an aggregation of two or more communities would be treated as a single unit. For the purpose of the calculation, funding amounts should include associated employee benefits. Where economic development programs are delivered by a territorial government, the Aboriginal Government may receive the base amount to support engagement with the service provider.

Education

- A25. Canada may provide Aboriginal Governments with funding for education at levels which are based either (i) by reference to federal K-12 program funding authorities as currently in place (i.e., available to Indian Bands or Inuit communities that have not entered into a Self-Government Arrangement); or (ii) at existing levels provided under an expiring fiscal agreement.
- A26. Where the Aboriginal Government operates one or more schools, Canada may provide funding in respect of the governance and administration costs associated with School Board services, or second-level services in education.
- A27. In addition, where the Aboriginal Government has assumed responsibility for education, Canada may provide additional funding to assist the Aboriginal Government to develop and sustain an internal capacity for policy functions related to education.⁷

Table 3 – Education – Policy Function Funding (\$2014)

Base Amount	Variable Amount
\$55,000 plus \$275 per person, to a maximum of \$165,000	3.6% of Education program funding

Social Development

- A28. Canada may provide Aboriginal Governments with funding for social development programs at levels which are based either (i) by reference to federal program funding authorities as currently in place (i.e., available to Indian Bands or Inuit communities that have not entered into a Self-Government Arrangement); or (ii) at existing levels provided under an expiring fiscal agreement.
- A29. In addition, where the Aboriginal Government has assumed responsibility for social development, Canada may provide additional funding to assist the Aboriginal Government to develop and sustain an internal capacity for policy functions related to social development.⁸

Table 4 – Social Development – Policy Function Funding (\$2014)

Base Amount	Variable Amount
\$55,000 plus \$275 per person, to a maximum of \$165,000	4.0% of Social Development program funding

⁷ Amounts are calculated on a per-Aboriginal Government (rather than per-community) basis, i.e., an aggregation of two or more Aboriginal communities would be treated as a single government. For the purpose of the calculation, program funding amounts should include associated employee benefits. Where education programs are delivered by a territorial government, the Aboriginal Government may receive the base amount to support engagement with the service provider.

⁸ Amounts are calculated on a per-Aboriginal Government (rather than per-community) basis, i.e., an aggregation of two or more Aboriginal communities would be treated as a single government. For the purpose of the calculation, program funding amounts should include the associated employee benefits. Where social development programs are delivered by a territorial government, the Aboriginal Government may receive the base amount to support engagement with the service provider.

Health

- A30. Canada may provide Aboriginal Governments with funding for Aboriginal health programs and services at levels which are based either (i) by reference to federal program funding authorities as currently in place (e.g., normally made available by Health Canada to Indian Bands or Inuit communities that have not entered into Self-Government Arrangements); or (ii) at existing levels provided under an expiring fiscal agreement.
- A31. Where an alternative delivery mechanism exists for Aboriginal health services otherwise normally provided by Health Canada (e.g. the First Nations Health Authority in British Columbia), parties to a fiscal arrangement will need to consider the appropriate delivery mechanism for health programs.
- A32. Should an Aboriginal Government assume responsibility for the delivery of health programs through a self-government fiscal arrangement, Health Canada will determine the appropriate funding in respect of the Aboriginal program and services, adjusted for price and volume. Should the parties determine that delivery of health programs should remain with the alternative delivery mechanism; no additional Aboriginal health program funding would be provided.

Aboriginal Government Own Source Revenue (OSR) Contributions

- A33. The calculation and application of OSR in the funding methodology can be broken down into three parts:
- A33.1 measuring “Net Eligible Revenues” for the fiscal year in which the OSR was earned;
 - A33.2 determining the OSR Contribution based on those Net Eligible Revenues; and
 - A33.3 applying the OSR Contribution to the General Expenditure Base for the fiscal year in which the fiscal transfer payment will be made.
- A34. Each Aboriginal Government will be required to submit an annual OSR Report to Canada prepared in accordance with Generally Accepted Accounting Principles (GAAP). The OSR Reports should be accompanied by the auditor’s report or the review engagement report.

Definition of Eligible Revenues⁹

- A35. Eligible Revenues to be taken into account in the calculation of the Aboriginal Government’s OSR capacity for a fiscal year shall include:
- A35.1 Tax Revenues;
 - A35.2 Resource Revenues;

⁹ For purposes of calculating Eligible Revenues under each of these categories, the Aboriginal Government is defined as including all organizations (for example, departments, funds, agencies, boards, commissions or corporations) that are considered to be part of the government reporting entity under section 1300 of the Public Sector Accounting Standards.

- A35.3 Business Entity Profits;
 - A35.4 Business and Property Income;
 - A35.5 Fees and Charges; and
 - A35.6 Miscellaneous Revenues.
- A36. For greater certainty, Eligible Revenues exclude those set out in the Excluded Revenues section (below).
- A37. For greater certainty, amounts reported in each of the categories under A35 for a fiscal year may not be negative numbers.

Tax Revenues

- A38. Tax Revenues means all revenues derived by the Aboriginal Government from taxation by the Aboriginal Government, as well as all revenues derived by the Aboriginal Government from an agreement with Canada to share tax revenues. As set out in the “Excluded Revenues” section (below), excluded from this calculation are any revenues derived by the Aboriginal Government as a result of a provincial/territorial decision to vacate tax room in favour of the Aboriginal Government or share tax revenues with the Aboriginal Government. In some circumstances, it may be appropriate to consider capacity to raise tax revenues, instead of actuals.
- A39. Where property tax revenues are not derived pursuant to an agreement with a province/territory, should property tax revenues be associated with a specific obligation to provide programs and services in respect of which Canada does not fund the Aboriginal Government, a share of such revenues may be excluded from consideration. Where an Aboriginal Government chooses to exempt some individuals such as its community members from real property tax imposition, Canada may determine that some or all of this foregone revenue represents property tax revenue capacity, and thus be included as OSR.

Resource Revenues

- A40. Resource Revenues of the Aboriginal Government will be calculated as the sum of all revenues derived by the Aboriginal Government in respect of the exploration, exploitation, development, production, right to use or use of natural resources on Aboriginal Government Lands.

Business Entity Profits

- A41. Business Entity Profits will be calculated as the aggregate of the Aboriginal Government’s share of profits earned by each business entity controlled by the Aboriginal Government¹⁰ (determined in accordance with GAAP), multiplied by the federal income tax rate on small business income of Canadian-controlled private corporations in the year (11% in 2014). This amount will be included in the Eligible Revenues of the Aboriginal Government in the year that the business entity earns

¹⁰ For purposes of this policy, a controlled business entity will include an entity (corporation, trust, partnership or other entity) that is a “government business enterprise” as defined in section 3070 of the Public Sector Accounting Standards.

the profits, regardless of whether the profits are distributed to the Aboriginal Government. For purposes of determining Business Entity Profits from controlled business corporations, only corporations that are exempt from income tax under section 149 of the *Income Tax Act* (Canada) will be considered. In addition, business entities which derive 90% or more of their income from portfolio investments will not be considered.

Business and Property Income

A42. Business and Property Income will be calculated as the sum of all:

A42.1 net income (losses) in the fiscal year from businesses carried on by the Aboriginal Government;

A42.2 net income (losses) from property in the fiscal year, including revenues from land leases; and

A42.3 net gains (losses) from the disposition of tangible capital assets.

A43. Business and Property Income is the amount by which the gross revenues exceed related expenses in the fiscal year. Losses cannot be carried forward or backward to other fiscal years.

Fees and Charges

A44. Fees and Charges of the Aboriginal Government are the aggregate of fees and charges derived by the Aboriginal Government in the fiscal year in respect of:

A44.1 federally supported programs;

A44.2 other goods, programs and services, other than user fees constituting a recovery of cost only; and

A44.3 the permitting or authorization of activities.

Miscellaneous Revenues

A45. Miscellaneous Revenues will be calculated as the sum of any other revenues reported in the audited financial statements of the Aboriginal Government that are not clearly identified as Tax Revenues, Resource Revenues, Business Entity Profits, Business and Property Income, Fees and Charges, or Excluded Revenues (as set out below).

Excluded Revenues

A46. The calculation of the Aboriginal Government's Eligible Revenues for a fiscal year will not include the following revenues:

A46.1 payments provided to the Aboriginal Government in respect of actual or potential impacts on the Aboriginal group (collective or nation) or its citizens arising from projects located off Aboriginal Government Lands. This exemption will not apply to payments made in respect of the purchase of goods or services provided by the Aboriginal

Government or an entity controlled by the Aboriginal Government in connection with such projects;

A46.2 amounts provided to the Aboriginal Government as compensation for, or in settlement of:

A46.2.1 claims relating to section 35 rights;

A46.2.2 specific claims under Canada's Specific Claims Policy;

A46.2.3 the loss of property; and

A46.2.4 damages other than those relating to the loss of revenues which would not otherwise qualify as excluded revenues.

A46.3 program transfers from Canada or other governments;

A46.4 Provincial/Territorial transfers, as defined below;

A46.5 proceeds from the sale or expropriation of Aboriginal Government Lands;

A46.6 portfolio investment income; and

A46.7 gifts and donations.

A47. Portfolio investment income is defined as income derived from investment in organizations that are not controlled by that Aboriginal Government.¹¹ Portfolio investment includes interest, dividends, and capital gains on financial assets.

A48. Provincial/Territorial Transfers are defined as:

A48.1 Aboriginal Government revenues derived from the decision of a province or territory, or its agent, to: vacate tax room in favour of the Aboriginal Government; delegate tax authorities to the Aboriginal Government; or transfer revenues.

A48.2 payments from a province or territory, or its agent, as funding to support programs or services; and

A48.3 payments from a province or territory, or its agent, in respect of compensation or accommodation for access to or impacts on the Aboriginal Government.

A49. The exemption for Provincial/Territorial Transfers applies to all transfers of tax room, other revenue and revenue capacity, including transfers of natural resource revenues earned by a province or territory, transfers of revenues of a lottery corporation, or agreements to permit one or more Aboriginal Governments, or their agent, to operate a casino or other gambling activity within a province or territory.

¹¹ As defined in section 3041 of the Public Sector Accounting Standards.

- A50. For greater clarity, payments or other transfers from provincial and territorial governments to an Aboriginal Government will be considered for the purpose of calculating the OSR contribution where:
- A50.1 such payments are made in respect of a transaction that is commercial in nature, such as the purchase of goods or services provided by the Aboriginal Government; and
 - A50.2 the transfer from the provincial or territorial government to the Aboriginal Government results in a commensurate increase in transfers from Canada to the relevant provincial or territorial government.
- A51. Where a province or territory is a party to a tripartite fiscal arrangement with Canada and an Aboriginal Government, Canada may agree to a sharing arrangement for OSR under which either (i) a proportion of Eligible Revenues are allocated for the purpose of calculating the federal or provincial-territorial OSR contribution based on respective funding provided by each government, or (ii) the division of the offset rate is provided to the same effect.
- A52. Canada will require that reciprocal treatment is provided for any federal revenues, tax room or payments as per A48 provided to the Aboriginal Government with respect to any own source revenue arrangement that a province or territory might require of the Aboriginal Government.

OSR Avoidance

- A53. Canada will require the inclusion of anti-avoidance provisions in fiscal agreements to ensure that OSR is calculated in a manner that is equitable among Aboriginal Governments and reflective of the fiscal capacity of each Aboriginal Government in a manner consistent with the spirit and intent of the Fiscal Approach.

Calculating OSR Contribution

- A54. The calculation of OSR Contribution is as follows:

Equation 3. The OSR Contribution

$$\text{OSR Contribution} = \text{Net Eligible Revenues} \times \text{Inclusion Rate}$$

Where:

$$\text{Net Eligible Revenues (must exceed zero)} = \left(\text{Eligible Revenues} - \text{Basic Exemption} \right)$$

$$\text{Inclusion Rate} = \text{Maximum Inclusion Rate} \times \text{Sectoral Factor} \times \text{Phase-In Factor}$$

- A55. To determine Net Eligible Revenues, the Basic Exemption is subtracted from the Eligible Revenues. The Basic Exemption is the greater of:
- A55.1 the sum of a fixed amount of \$125,000 and a per capita amount of \$125 (in \$2014); or
 - A55.2 for the first nine years after the Effective Date of the Self-Government Arrangement, a Pre-Existing Revenue Exemption equal to the average of the Eligible Revenues for the Aboriginal Government for the three fiscal years prior to the Fiscal Year in which the Effective Date falls. For the purposes of determining Pre-Existing Revenue exemption the principles for calculating Eligible Revenues set out in this policy will apply.
- A56. To determine the Aboriginal Government's OSR contribution, Net Eligible Revenues are multiplied by the Inclusion Rate, which is the product of:
- A56.1 **Maximum Inclusion Rate:** The Maximum Inclusion Rate for all Net Eligible Revenues is 50%;
 - A56.2 **Sectoral Factor:** A Sectoral Factor may be applied to an agreement where the Aboriginal Government has assumed responsibility for no more than three sectors, such as Core Governance, Social Development, Health, or Education and the annual federal funding provided via the (gross) self-government transfer is no more than 75% of the annual federal funding provided to that Aboriginal Government. The sectoral factor is calculated as the percentage of annual federal funding to the Aboriginal Government that is provided via the self-government transfer; and
 - A56.3 **Phase-In Factor:** To allow a transition period, a Self-Government Arrangement entered into after this policy comes into effect will allow for OSR to be phased-in over 20 years from the Effective Date of that Self-Government Arrangement. The Phase-In Factor is set at zero for the first 5 years, 6.6% in the sixth year, and then increases evenly over the remaining 15 years until it reaches 100% in year 20.¹²

Term of Fiscal Agreements and Annual Funding Adjustments

- A57. Fiscal agreements with Aboriginal Governments may be set out for multi-year periods as agreed by the Parties. Over the long term, Canada may seek to coordinate the termination year of agreements to establish a common renewal cycle.
- A58. For the life of a fiscal agreement, Canada may provide that funding levels are adjusted annually to take account of price changes, population or other volume or work load measures ("Adjustment Factors"). Such Adjustment Factors will affect how funding may change over time in response to key changes that would be expected to affect the cost of delivering programs and services by the Aboriginal Government.
- A59. Where it is practical to acquire reliable data on a timely basis, agreements may incorporate an adjustment method based on actual price or population changes and a recalculation of funding

¹² OSR phase-in provisions already established by prior agreements will not be adjusted as a result of this policy but will continue to run for the balance, if any, of the applicable transition period.

methodologies. However, where this is impractical, agreements may incorporate a fixed estimate of these Adjustment Factors.

A60. The application of the Adjustment Factors will vary depending on the funding element (e.g. governance, specific programs, etc.). The following table presents the funding elements and their anticipated Adjustment Factors.

Funding Element:	Annual changes:
Core Governance	Recalculation/adjustment ¹³
Incremental Administrative Functions	Recalculation/adjustment
Modern Treaty Implementation	Price adjustment only
Lands Management	As per FNLM ¹⁴
Economic Development	Price adjustment only
Education	Price and Population or relevant program adjustment
Social Development	Price and Population adjustment
Health	Price and Population adjustment

A61. **Price** - Price adjusters are used to modify funding amounts to reflect changing price levels over time. The price adjuster may be based on the year-over-year change in the first released previous year's third quarter value of the "Final Domestic Demand Implicit Price Index" for Canada, or FDDIPI.

A62. **Population/volume** – Population or volume adjusters are used to modify funding amounts to reflect changes in the population of an Aboriginal community or the recipients of a program. For general population data, Canada's will use Indian Registry data for members/citizens of the Aboriginal Government who are registered Indians living on Aboriginal Government Lands. In the case of agreements with Inuit, landless bands, and bands without reserves, an appropriate proxy to measure the eligible population will be used. In other contexts (i.e., the North where there are few Indian reserves), population may be determined by an appropriate census of the Aboriginal community membership based on an agreed-upon methodology between Canada and the Aboriginal Government.

Determining the Fiscal Transfer

A63. The final steps in determining the Fiscal Transfer in a given year are:

A63.1 STEP 1: Calculate the Aboriginal Government's General Expenditure Base amount which includes Governance, Modern Treaty Implementation, Land Management, Economic Development, and Community Development.

A63.2 STEP 2: Subtract the Aboriginal Government OSR Contribution from the General Expenditure Base to determine the General Transfer.

¹³ Canada may periodically recalculate Core Governance, Policy Function, and Incremental Administrative Function amounts, using up-to-date information on prices, population, and program funding.

¹⁴ Land Management Amounts are calculated using the formula in use under the *First Nations Land Management Act*, as it may be amended over time, which may or may not provide for annual adjustment.

- A63.3 STEP 3: Determine the Social Transfer amount which comprises the sum of amounts to support funding for Education, Social Development and Health programs or services.
- A63.4 STEP 4: Sum the General Transfer and the Social Transfer.
- A63.5 STEP 5: Calculate the Transfer Floor (which is equal to \$1250 per capita (in \$2014), multiplied by the Sectoral Factor as applicable).
- A63.6 STEP 6: The Fiscal Transfer equals the greater of the amounts determined in STEP 4 or STEP 5.

A64. Figure 3 provides a summary of the steps described above (see below).

Figure 3. Components of the Fiscal Transfer to Aboriginal Governments

