



Audit of the AANDC  
and Attawapiskat First  
Nation (AFN)  
Management Control  
Framework

Aboriginal Affairs and  
Northern Development  
Canada

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# Acronyms

AANDC	Aboriginal Affairs and Northern Development Canada
ADM	Assistant Deputy Minister
AES	Audit and Evaluation Sector
BCR	Band Council Resolution
CFO	Chief Financial Officer
CFM	Capital Facilities and Maintenance Program
CMC	Core Management Controls
CMHC	Canada Mortgage and Housing Corporation
HIAA	Housing and Infrastructure Assets Annual Report
MLG	Ministerial Loan Guarantee
MTC	Mushkegowuk Tribal Council
RBAP	Risk-Based Audit Plan
RMP	Remedial Management Plan
RRAP	Residential Rehabilitation Assistance Program

# Executive summary

## Background

In December 2011, a comprehensive audit<sup>1</sup> was requested by the Minister and Deputy Minister of Aboriginal Affairs and Northern Development Canada (AANDC) due to concerns with the ongoing housing situation in the Attawapiskat First Nation community, particularly given the level of total funding (approximately \$104M) provided to them between April 1, 2005 and November 30, 2011 by AANDC for various purposes including housing, infrastructure, education, and administration. In this instance, the term comprehensive audit consisted of a recipient audit of the Attawapiskat First Nation, to provide assurance that funding provided to the Attawapiskat First Nation was spent for its intended purposes and in compliance with the terms and conditions of all funding agreements signed with AANDC and Health Canada; and, an internal audit of the AANDC management control framework, to understand how AANDC oversight measures for housing related to the Attawapiskat First Nation were applied during that same period.

The Attawapiskat First Nation was placed under co-management – a form of intervention employed by the Department with the goal of improving the financial situation of a recipient – by AANDC over ten years ago. On November 30, 2011, urgent housing health and safety issues in the community requiring immediate action were identified and resulted in AANDC appointing a Third Party Manager until such time as the community's immediate needs would be addressed. On April 19, 2012, based on the progress made in remediating urgent housing-related health and safety issues, AANDC determined that the default situation was remedied and removed the First Nation from third party management.

A recipient audit of the Attawapiskat First Nation was performed as part of the comprehensive audit and was done so in accordance with the *Guideline on Recipient Audits* under the Treasury Board *Policy on Transfer Payments* and the *Directive on Transfer Payments* and followed the Canadian Institute of Chartered Accountants' *Assurance Handbook Section 9100, Reports On The Results Of Applying Specified Auditing Procedures To Financial Information Other Than Financial Statements*. The results of the recipient audit were issued through a separate report to AANDC management.

## Roles and responsibilities

First Nations own and operate housing on reserve and are responsible for the completion and ongoing management of housing projects. These responsibilities include rent collection, repair and maintenance, and ensuring that units constructed meet or exceed the requirement of the *National Building Code of Canada* or an accepted equivalent code.

The Government of Canada's role with respect to on-reserve housing is to support the First Nation in providing their membership with safe and affordable on-reserve housing. This support is primarily achieved through programs and services offered by AANDC, Canada Mortgage and Housing Corporation (CMHC) and Health Canada.

AANDC makes funding available to First Nations for the establishment and maintenance of an on-reserve housing program primarily through contributions made from the minor core capital component of the Capital Facilities and Maintenance Program (CFM). According to the terms and conditions of the CFM

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<sup>1</sup> This comprehensive audit did not include an assessment of the efficiency and economy in the design and operation of programs and services and was not intended to conclude on value-for-money spent.

program, minor core capital funds can be used to assist in the construction and renovation of houses, as well as for the implementation of First Nation community-based housing plans, which may include elements such as maintenance and insurance, debt servicing, training, management, and support to establish housing authorities.

AANDC also administers the Ministerial Loan Guarantee (MLG) Program which provides the loan security required by lenders (including CMHC) who extend debt financing to First Nations or individual band members for the construction, acquisition or renovation of on-reserve housing. CMHC loans provided to Attawapiskat First Nation for the construction of new on-reserve housing units for the period covered by the audit (April 2005 to November 2011) were guaranteed by the Minister of AANDC through MLGs. The total value of MLGs provided by AANDC to CMHC for Attawapiskat First Nation loans during this period was \$7.3M.

CMHC provides financial assistance to First Nations in the construction, purchase, rehabilitation, and administration of suitable, adequate and affordable rental housing on-reserve. This financial assistance, provided in the form of loans and subsidies, is predominately achieved through two programs: the On-Reserve Non-Profit Housing Program and the On-Reserve Residential Rehabilitation Assistance Program (RRAP).

Health Canada's role in housing is focused on research and providing expert inspections, when called upon, to determine if a house is fit to live in and providing advice on corrective action, if required.

## Audit objective and scope

The objective of this internal audit was to provide the Deputy Minister and Minister of AANDC with assurance that the AANDC management control framework in place was adequate and effective in ensuring compliance with Treasury Board and departmental policies and directives governing transfer payments and that AANDC monitoring, oversight, and reporting practices were effective and functioning as intended.

The scope for this audit was April 1, 2005 to November 30, 2011 and included an examination of the AANDC management control framework for housing and an examination of AANDC's relationship with other federal funders for housing. The scope included audit procedures performed at AANDC Headquarters and the AANDC Ontario North Regional Office (located in Thunder Bay), which is AANDC's primary support office for the Attawapiskat First Nation.

While the roles and responsibilities of other federal funders (i.e. CMHC and Health Canada) were reviewed and these departments were consulted for this audit, only AANDC internal controls were examined and tested as part of the audit scope. Where applicable, observations related to the practices of other federal funders were communicated to their respective senior management.

## Observed strengths

Throughout the audit fieldwork, the audit team observed several examples of how controls are properly designed and are being applied effectively by management. This resulted in several positive findings as follows:

- AANDC, CMHC, and Attawapiskat First Nation, were working in partnership at the regional level to determine allocations of housing funds for the Attawapiskat First Nation;
- From a financial perspective, major core capital projects and Canada's Economic Action Plan projects related to Attawapiskat First Nation housing were well monitored by AANDC;
- Assessments and approval decisions for Attawapiskat First Nation minor core capital activities, major core capital housing, and payments related to housing were executed in a timely manner by AANDC individuals with appropriate delegated authority; and,
- Monitoring controls as well as system controls built into AANDC financial systems were used adequately to ensure funding commitments for Attawapiskat First Nation housing activities did not exceed authority levels and program budgets.

## Statement of assurance

Sufficient and appropriate audit procedures have been performed and evidence gathered to support the accuracy of the conclusions reached and contained in this report.<sup>2</sup> The conclusions were based on observations and analyses of the situations as they existed at the time against the audit criteria. The conclusions are only applicable to the Audit of the AANDC and Attawapiskat Management Control Framework. The evidence was gathered in accordance with the *Internal Auditing Standards for the Government of Canada* and the *International Standards for the Professional Practice of Internal Auditing*.

## Conclusion

Areas where AANDC management practices could be improved were noted in the following areas: compliance and enforcement of Ministerial Loan Guarantee funding agreements' terms and conditions, Capital Facilities and Maintenance Program minor core capital funding practices, and housing performance measurement and reporting.

## Recommendations

The audit team identified areas where management controls, practices and processes could be improved, resulting in two recommendations.

The Audit and Evaluation Sector recommends that:

1. The Ministerial Loan Guarantee process should be reviewed, in consultation with CMHC, giving consideration to the following:
  - Developing stricter enforcement practices with respect to eligibility requirements and taking remedial action with regard to non-compliance;
  - Implementing practices to certify completion of housing units by a suitably qualified professional according to National Building Code of Canada standards or an accepted equivalent set of standards;
  - Conducting a risk-based periodic review of First Nation inspection records; and,
  - Developing formal practices (e.g. Memorandum of Understanding between AANDC and CMHC) to require that the results of CMHC Physical Condition Reviews and client visit reports be shared with AANDC as a mandatory requirement of the eligibility process.
2. The Capital Facilities and Maintenance (CFM) Program terms and conditions should be reviewed, giving consideration to the following:
  - Including eligibility requirements which require demonstrated financial management capability with respect to the First Nation's housing program (e.g. Replacement Reserve Account, collection practices, reliable housing reports);
  - Adding the requirement that a separate Housing Authority be established as a CFM eligibility requirement;
  - Discontinuing the practice of allowing minor core capital to be used for the purposes of debt repayment; and,
  - Clarifying housing report definitions and developing housing performance indicators which can be used to assess maintenance needs and establish a baseline on which to measure ongoing performance.

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<sup>2</sup> AANDC reviewed two consecutive drafts of the internal audit report with CMHC officials, including the Acting Chief, Audit and Evaluation Services, in order to verify the facts and ensure accuracy of the representations made in this report.

# 1 Introduction and context

## 1.1 Background

In December 2011, a comprehensive audit<sup>3</sup> was requested by the Minister and Deputy Minister of Aboriginal Affairs and Northern Development Canada (AANDC) due to concerns with the ongoing housing situation in the Attawapiskat First Nation, particularly given the level of funding (approximately \$104M<sup>4</sup>) provided to them between April 1, 2005 and November 30, 2011 by the AANDC for various purposes, including housing, infrastructure, education, and administration. In this instance, the term comprehensive audit consisted of a recipient audit of the Attawapiskat First Nation, to provide assurance that funding provided to the Attawapiskat First Nation was spent for its intended purposes and in compliance with the terms and conditions of all funding agreements signed with AANDC and Health Canada; and, an internal audit of the AANDC management control framework, to understand how AANDC oversight measures for housing related to the Attawapiskat First Nation were applied during that same period.

Due to concerns regarding the community's financial management practices, the Attawapiskat First Nation was placed under co-management – a form of intervention employed by the Department with the goal of improving the financial situation of a recipient – by AANDC over ten years ago. On November 30, 2011, urgent housing health and safety issues in the community requiring immediate action were identified and resulted in AANDC placing the community in third party management until such time as the community's immediate needs would be addressed. On April 19, 2012, based on the progress made in remediating urgent housing-related health and safety issues, AANDC determined that the default situation was remedied and removed the First Nation from third party management.

A recipient audit of the Attawapiskat First Nation was performed as part of the comprehensive audit and was done so in accordance with the *Guideline on Recipient Audits* under the *Treasury Board Policy on Transfer Payments* and the *Directive on Transfer Payments* and followed the *Canadian Institute of Chartered Accountants' Assurance Handbook Section 9100, Reports On The Results of Applying Specified Auditing Procedures To Financial Information Other Than Financial Statements*. The results of the recipient audit were issued through a separate report to AANDC management.

## 1.2 Roles and responsibilities

The provision and management of housing on reserve lands is the responsibility of the First Nation. First Nations own and operate housing on reserve and are responsible for the completion and ongoing management of housing projects. These responsibilities include rent collection, repair and maintenance, and ensuring that units constructed meet or exceed the requirement of the *National Building Code of Canada* or an accepted equivalent code.

The Government of Canada's role with respect to on-reserve housing is to support the First Nation in providing their membership with safe and affordable on reserve housing. This support is primarily achieved through programs and services offered by AANDC, Canada Mortgage and Housing Corporation (CMHC), and Health Canada. A breakdown of the roles and responsibilities for each party as it relates to on-reserve housing is outlined below.

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<sup>3</sup> The term comprehensive audit does not include an assessment of the efficiency and economy in the design and operation of programs and services. This audit is not intended to conclude on value-for-money spent.

<sup>4</sup> This figure does not include \$13M in funding that was provided after November 30, 2011, which included \$3.75M for housing-related activities.

## **Attawapiskat First Nation**

The Attawapiskat First Nation's Chief and Council are responsible for administering housing programs and ensuring compliance with the terms and conditions of AANDC funding agreements, CMHC operating agreements, and other funding agreements signed with the Government of Canada. The Attawapiskat First Nation owns and operates on-reserve housing and is responsible for the completion and ongoing management of housing projects, including revenue/rent collection and maintenance and repair of the units, once complete.

The Attawapiskat First Nation is also responsible for ensuring that units constructed meet or exceed the requirement of the *National Building Code of Canada* or an accepted equivalent code. For the Attawapiskat First Nation, technical reviews and site inspections are performed by Mushkegowuk Tribal Council. Mushkegowuk Tribal Council is a non-profit Regional Council of Chiefs representing seven Cree First Nations in northern Ontario (including the Attawapiskat First Nation). The Mushkegowuk Tribal Council provides technical advisory, consultation, review and recommendation services in capital management, engineering and architectural related activities inherent in the management of real property and other capital assets to all First Nation communities that form part of the Mushkegowuk Tribal Council.

## **Aboriginal Affairs and Northern Development Canada (AANDC)**

AANDC provides funding for housing, in the form of contributions, primarily through the minor core capital funding component of the Capital Facilities and Maintenance (CFM) program. AANDC minor core capital funds can be used for construction and renovation of houses, as well as for the implementation of First Nation community-based housing plans, which may include elements such as maintenance and insurance, debt servicing, training, management, and support to establish housing authorities.

AANDC also administers the Ministerial Loan Guarantee (MLG) program which provides the loan security required by lenders (including CMHC) who provide loan financing to First Nations or individual band members for the construction, acquisition or renovation of on-reserve housing. Reserve lands are held by the Crown for the use and benefit of First Nations, as set out in the *Indian Act*. Under sub-section 89 (1) of the *Indian Act*, a non-Indian is prohibited from seizing Indian property, which effectively prevents the use of land on reserve as security for a loan and prevents seizure of real property located on reserve by a lender. These restrictions pose an impediment to Chief and Councils, individuals and businesses seeking loan financing such as mortgages for on-reserve projects, including housing. To mitigate this risk to the lender, AANDC issues MLGs to lenders in order to secure on-reserve housing loans. CMHC loans provided to the Attawapiskat First Nation were guaranteed by the Minister of AANDC through Ministerial Loan Guarantees (MLGs). During the audit period, \$7.3M in loans was guaranteed by the Minister of AANDC using MLGs as loan security.

## **Canada Mortgage and Housing Corporation (CMHC)**

CMHC provides assistance to First Nations in the construction, purchase and rehabilitation, and administration of suitable, adequate and affordable rental housing on-reserve. This assistance is predominately achieved through two programs: the On-Reserve Non-Profit Housing Program and the On-Reserve Residential Rehabilitation Assistance Program (RRAP). Through Section 95 of the *National Housing Act's* On-Reserve Non-Profit Housing Program, CMHC provided loans and operating subsidies to the Attawapiskat First Nation for non-profit rental housing to support the financing and operation of housing units over the life of the loan. The RRAP offers financial assistance in the form of a forgivable loan to bring existing housing up to minimum health and safety standards and to modify housing to meet the needs of the disabled.



As part of its housing portfolio management activities, CMHC conducts Physical Condition Reviews every five years. These reviews, which are of a non-invasive nature (i.e. no structural inspection is performed), are conducted on a sample basis and not on all units in the housing project. The purpose of these reviews is to assess and record the condition of the project; to identify potential improvements to maintenance and capital repair practices; and to assist in capital repair planning. Over the audit period of April 1, 2005 to November 2011, CMHC conducted one Physical Condition Review on housing units in the Attawapiskat First Nation. This Physical Condition Review of the Attawapiskat First Nation community was conducted in April 2009 and included a review of five housing units (in a project of 27 units).

In addition to the five year Physical Condition Reviews, CMHC conducts client site visits every three years. The purpose of these client visits is to review the First Nation's management and accounting systems in support of their housing program, and provide the First Nation with feedback and any recommendations for improvement. The client visits look at management practices in the areas of organization, finance, rentals and tenants, maintenance, and training needs and the results of the client site visit are shared with the First Nation. The most recent client visit of the Attawapiskat First Nation was conducted by CMHC in May 2010.

CMHC's Aboriginal Capacity Development facilitates the acquisition of skills, training and resources to support First Nations to achieve their housing objectives.

## Health Canada

Health Canada provides support for First Nation health and safety related housing issues (e.g. mould, ventilation), but its programming (e.g. Environmental Public Health Program) is focused on research and providing expert inspections, when called upon, to determine if a housing dwelling is fit to live in from a health and safety perspective and providing advice on the corrective action required. Health Canada does not provide Attawapiskat First Nation funds for the construction of housing.

### 1.3 Funding profile

Between April 1, 2005 and November 30, 2011 approximately \$104M in total funding was provided to the Attawapiskat First Nation by AANDC. Of that total, approximately \$8.3M<sup>5</sup> in contribution funding was provided by AANDC for housing-related activities through the Capital Facilities and Maintenance (CFM) program, which included \$6.85M for housing maintenance; \$1M for immediate housing needs; and, \$450K for housing renovations under Canada's Economic Action Plan.

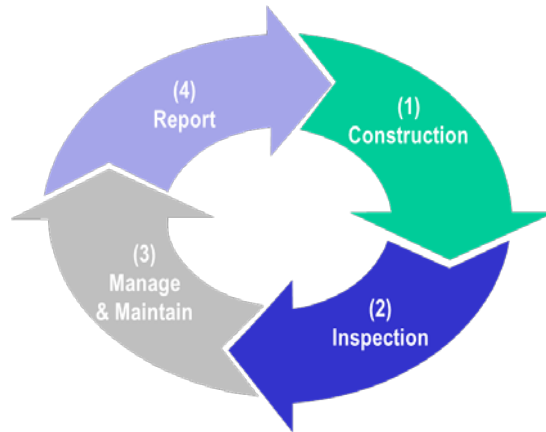
During that same period, CMHC provided the following funding to assist in the construction and renovation of rental housing on reserve: \$7.3M in loans which were guaranteed by the Minister of AANDC using Ministerial Loan Guarantees (MLGs) as loan security; \$1.7M in operating subsidies (un-secured); and \$0.3M for renovations.

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<sup>5</sup> This figure does not include \$3.75M in housing-related funding that was provided after November 30, 2011.

## 1.4 Housing lifecycle

For the purposes of this audit report, the housing lifecycle has been broken into four phases: construction, inspection, management and maintenance, and reporting. Descriptions for each phase of the housing lifecycle are as follows:



- **Construction** – is the initial step of adding a housing structure to a community’s inventory of real property. The construction of housing units is managed by the First Nation and funded through own-source revenue, loans<sup>6</sup> provided by CMHC or another lender (and secured by AANDC through a Ministerial Loan Guarantee) or a combination of the two. In this instance, loans for housing construction were provided by CMHC and were subject to the terms and conditions of AANDC MLGs and CMHC loan agreements. According to the terms and conditions of these funding agreements (MLG and loan agreements), residential construction practices, technologies, and resources used in the construction phase by the First Nation must conform to local building authority regulations and *National Building Code of Canada* standards or an accepted equivalent set of standards. CMHC conducts progress inspections during construction to support making loan advances. CMHC reported that using Tribal Councils to conduct progress inspections is a standard practice for many First Nation Communities.
- **Inspection** – site and project progress and completion inspections are an extremely important part of the housing construction quality control process. General contractors/builders appoint site supervisors to review the completed work and to check that the work has been done according to the design specifications and accepted building codes and construction standards. Building inspectors who inspect the construction quality of the housing unit must generally pass specific courses and/or be certified to perform these duties. CMHC requires a written declaration from an authorized representative of the First Nation that units constructed meet the requirements of the *National Building Code of Canada* or an acceptable equivalent set of standards.
- **Manage and maintain** – includes the ongoing management of the housing program by the First Nation. This phase normally includes ongoing maintenance, administration, implementation, and enforcement of housing policies which address the housing needs of the community membership in a fair, open, and transparent manner. The creation of a separate housing authority that is arm’s length from community political control has long been advocated to First Nations as a means to ensure a clear separation of powers in determining the required number of housing units, allocating available homes to tenants, ensuring the ongoing collection of rent, and providing for a regular maintenance routine. However, CMHC indicates that it is not aware of any such entities in Ontario First Nations.
- **Reporting** – includes the tracking and measurement of performance with respect to housing activities undertaken by a First Nation as well as funds provided by AANDC (i.e. minor core capital contributions) used in support of a First Nation’s housing activities. This phase also includes reporting by a First Nation to AANDC on the current state of housing in the community.

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<sup>6</sup> During the construction phase, CMHC only provides loans. Operating subsidies are provided by CMHC in the Manage and Maintain phase.

# 2 Audit objective and scope

## 2.1 Audit objective

The objective of this internal audit was to provide the Deputy Minister and Minister of AANDC, with assurance that the AANDC management control framework in place was adequate and effective in ensuring compliance with Treasury Board and departmental policies and directives governing transfer payments and that AANDC monitoring, oversight, and reporting practices were effective and functioning as intended.

The audit objective was supported by detailed audit criteria developed in alignment with Treasury Board of Canada Secretariat's Core Management Controls.

## 2.2 Audit scope

The scope for this audit was from April 1, 2005 to November 30, 2011 and included an examination of the AANDC management control framework for housing and an examination of AANDC's relationship with other federal funders for housing. The audit scope included the areas of governance, people, stewardship, accountability, results and performance, and risk management with respect to housing. Audit fieldwork was conducted in AANDC Headquarters and the AANDC Ontario North Regional Office in Thunder Bay from February 10, 2012 to March 30, 2012.

While the role and responsibilities of other federal funders (i.e. CMHC and Health Canada) were reviewed and these departments were consulted for this audit, only AANDC internal controls were examined and tested as part of the audit scope.

## 2.3 Statement of assurance

Sufficient and appropriate audit procedures have been performed and evidence gathered to support the accuracy of the conclusions reached and contained in this report.<sup>7</sup> The conclusions were based on observations and analyses of the situations as they existed at the time against the audit criteria. The conclusions are only applicable to the Audit of the AANDC and Attawapiskat Management Control Framework. The evidence was gathered in accordance with the *Internal Auditing Standards for the Government of Canada* and the *International Standards for the Professional Practice of Internal Auditing*.

## 2.4 Approach and methodology

The principal audit techniques used during the conduct of the audit included:

- Interviews with key AANDC Headquarters and Regional management and staff personnel who were involved in supporting the Attawapiskat First Nation over the past six years, as well as representatives from CMHC, Mushkegowuk Tribal Council and the current Co-Manager for the Attawapiskat First Nation;
- Review of relevant AANDC documentation related to governance, people, stewardship, results and performance, accountability, and risk management, including reports submitted by the Attawapiskat First Nation and select CMHC documents;

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<sup>7</sup> AANDC reviewed two consecutive drafts of the internal audit report with CMHC officials, including the Acting Chief, Audit and Evaluation Services, in order to verify the facts and ensure accuracy of the representations made in this report.

- Evaluation of the system of internal controls, risk management and governance within AANDC for processes within the audit scope; and,
- Conduct of a detailed review of a sample of AANDC payment transactions and performance and progress reporting documentation.

The approach used to address the audit objective included the development of audit criteria against which observations, assessments and conclusions were drawn. A listing of the audit criteria is included in Appendix A.

## **2.5 Conclusion**

Areas where AANDC management practices could be improved were noted in the following areas: compliance and enforcement of Ministerial Loan Guarantee funding agreements' terms and conditions, Capital Facilities and Maintenance Program minor core capital funding practices, and housing performance measurement and reporting.

# 3 Observations and recommendations

Based on a combination of the evidence gathered through the examination of documentation, analysis and interviews, each audit criterion was assessed by the audit team and a conclusion for each audit criterion was determined. Where a significant difference between the audit criterion and the observed practice was found, the risk of the gap was evaluated and used to develop a conclusion and to document recommendations for future improvement initiatives.

Observations include both management practices considered to be strong as well as those requiring improvement. Accompanying the observations of management areas identified for improvement are recommendations for corrective actions. Where applicable, observations related to the practices of other federal funders were communicated to their respective senior management.

## 3.1 Housing activities

### 3.1.1 Ministerial Loan Guarantees (MLG)

In order to obtain a Ministerial Loan Guarantee (MLG), a First Nation must submit to AANDC a Band Council Resolution (BCR) (or equivalent authorizing document) along with other key documents in support of the housing project, including a copy of the CMHC conditional commitment letter. The BCR must state that all housing to be constructed, acquired or renovated shall be inspected by qualified inspectors who must confirm that it will meet or exceed the *National Building Code of Canada* standards and other relevant standards. The BCR should also confirm the First Nation's understanding that the record of inspection and record of compliance to *National Building Code of Canada* standards or other relevant standards must be kept on file by the First Nation for the life of the MLG, and that AANDC may require to see these records from time to time.

In addition to the BCR, the First Nation must also meet AANDC's application requirements and eligibility criteria in order for AANDC to issue an MLG in support of the housing project. The eligibility criteria include: maintaining a satisfactory record of managing and meeting financial obligations with previous AANDC-funded housing projects, whether for new construction or for renovation; and, ensuring all capital reporting requirements in First Nation funding agreements are met.

If the First Nation has a cumulative operating deficit above 8% of total annual operating revenue (as was the case with Attawapiskat First Nation), the First Nation is required by AANDC to prepare a Remedial Management Plan (RMP). An RMP describes the problem which caused the financial difficulty and identifies corrective actions being taken by the First Nation to address the cause(s). A First Nation may be considered eligible for an MLG only if the RMP is in place and has been operating effectively for at least the previous six consecutive months.

Subsequent to AANDC's approval of the MLG, project operating agreements are established between CMHC and the First Nation for each new housing construction project. Operating agreements between CMHC and the First Nation outline the specific terms and conditions under which the First Nation agrees to operate the project, in order to continue to benefit from the federal subsidy provided through the *National Housing Act*. The operating agreement includes: the subsidy formulae; the requirement for the First Nation to maintain strong project management practices in the operation of the projects (as evidenced by maintaining books and records, undertaking maintenance programs, and maintaining the housing stock in satisfactory state of repair); a requirement to set aside monies for a Replacement Reserve Fund and an Operating Reserve Fund; and, a requirement to submit annual audited financial statements. During the audit period, a total of six operating agreements (for a total of 42 housing units) were established between CMHC and the Attawapiskat First Nation.

Through the project operating agreement, the First Nation agrees to make an annual minimum revenue contribution. This may be accomplished through the collection of rent monies, other Band funds, or a combination of both. In the event that rent monies collected are not sufficient to cover the annual minimum revenue contribution, the First Nation is obligated to fund the difference with other Band monies. In addition, through the operating agreement, the First Nation agrees to maintain a Replacement Reserve Fund in a separate bank account.

The audit included a review of the Attawapiskat First Nation's BCRs and found that the BCRs did not include a resolution stating that housing to be constructed, acquired or renovated shall be inspected by qualified inspectors who must confirm that it will meet or exceed the *National Building Code of Canada* standards and other relevant standards. In addition, the Attawapiskat First Nation's BCRs reviewed did not assert that the record of inspection and record of compliance to *National Building Code of Canada* standards or other relevant standards would be kept on file by the First Nation for the life of the MLG. The audit also did not find a practice used by AANDC management to request and review inspection records from time to time, to ensure housing was indeed being constructed according to acceptable building code standards. Lastly, while the Attawapiskat First Nation' BCRs did resolve to establish rental contracts with First Nation members and operate a separate and distinct record of accounting related to the Attawapiskat First Nation's housing program and all payments made by occupants, these practices were not fully implemented (as reported further in Section 3.1.2 of this report).

Contrary to MLG eligibility requirements, the audit found that Attawapiskat First Nation had difficulties in maintaining a satisfactory record of managing financial obligations with previous AANDC-funded housing projects (e.g. incurred debt and made loan payments using AANDC funding) and all capital reporting requirements in First Nation funding agreements were not satisfactorily met (e.g. late and inaccurate reporting). In these instances, a First Nation may still be eligible for an MLG if an RMP, that describes the problem which caused the financial difficulty and identifies corrective actions being taken by the First Nation to address the cause(s), has been in place for at least the last six consecutive months. The audit noted however that an acceptable Attawapiskat First Nation RMP was not found for most of the years reviewed during the audit period.

Through a review of management letters from the Attawapiskat First Nation's financial statement auditors and from the CMHC site visit report, the audit found that the Attawapiskat First Nation did not comply with some of the key requirements in the CMHC operating agreement such as funding minimum revenue contributions and funding a Replacement Reserve Fund. Specifically, replacement reserve funds had not been set up in a separate account and were continuously underfunded. Subsequent loans and subsidies were provided to the Attawapiskat First Nation, even though the community was known to be non-compliant with the operating agreement's terms and conditions. Shortages in the Replacement Reserve Fund adversely impact the Attawapiskat First Nation's ability to maintain their housing inventory as envisioned by the operating agreement. The audit found that additional remedial measures were not implemented by CMHC in response to instances of non-compliance by the Attawapiskat First Nation. CMHC indicates that they identified deficiencies with respect to compliance and worked with the Attawapiskat First Nation to identify approaches to their remediation, including the provision of training assistance where staff capacity was an issue.

As a lender, CMHC conducts progress inspections during construction to support making loan advances; a standard lending practice. For the audit period, CMHC contracted with Mushkegowuk Tribal Council to conduct these reviews and progress site inspections. CMHC noted that these inspections are not an assessment of building code compliance or quality of construction. Upon substantial completion of the housing unit, CMHC requires declaration from an authorized representative of the First Nation, the jurisdiction with authority, confirming that the unit constructed meets or exceeds the requirements of the *National Building Code of Canada* or an accepted equivalent set of standards. CMHC does not require evidence in the form of a documented certification to demonstrate that the declaration was supported by an independent and suitably qualified professional to certify that the First Nation has completed the construction according to an accepted building code - a practice that is common in the construction industry. Without evidence of certification from an independent and suitably qualified professional, there

is limited assurance provided to CMHC that housing units constructed are being built to *National Building Code of Canada* standards or an accepted equivalent set of standards, and as a result, there is increased potential that the completed units will require enhanced maintenance or repair.

As part of its housing portfolio management activities, CMHC also conducts Physical Condition Reviews every five years. CMHC conducts these reviews, which are of a non-invasive nature (i.e. no structural inspection is performed), on a sample basis, and not on all units in the housing project. The purpose of these reviews is to assess and record the condition of the project; to identify potential improvements to maintenance and capital repair practices; and to assist in capital repair planning. The review is not meant to replace the First Nation's responsibilities with respect to inspection and maintenance. Each observation related to building components needing repair noted in the report is assigned a priority level based on the immediacy of the repairs required – urgent, short term, medium term, or long term.

During the course of the audit, several interviewees noted abnormal and accelerated deterioration of housing units in the Attawapiskat First Nation community, including some units which were built within the past five years. CMHC indicated that interviewees' comments were of a general nature relating to the impact overcrowding has on units. Over the audit period of April 1, 2005 to November 2011, CMHC conducted one Physical Condition Review on housing units in the Attawapiskat First Nation. This Physical Condition Review of the Attawapiskat First Nation community (conducted in April 2009 on a sample of five housing units from a project of 27 units which were built in 1990 and 1994), it was noted that most of the units had common deficiencies such as poor indoor air quality, high water table and overcrowding. The review also noted several urgent and short term priorities for individual units which were provided to the Attawapiskat First Nation to address. The limited supply of qualified inspectors servicing the Northern Ontario region was identified by AANDC interviewees and the current Co-Manager as a possible obstacle to obtaining adequate certified housing inspections.

In addition to the five year Physical Condition Reviews, CMHC conducts client visits every three years. The purpose of these client visits is to review the First Nation's management and accounting systems in support of their housing program, and to provide the First Nation with feedback and recommendations for improvement. The observations and recommendations made in the client visit report are based on the requirements of the CMHC project operating agreements. The client visit looks at management practices in the areas of organization, finance, rentals and tenants, maintenance, and training needs. The results of the client visit are shared with the First Nation. The most recent client visit of the Attawapiskat First Nation community was conducted in May 2010. In the Attawapiskat First Nation client visit report, recommendations were made with respect to the inadequacy of the Attawapiskat First Nation Housing Policy, insufficient budget reports, underfunding of their Replacement Reserve Fund and a lack of a separate account for their Operating Reserve account; omission of an arrears policy in the rental agreement; and, incomplete annual inspections and maintenance files for each housing unit (in particular the older units).

The audit found that both the Physical Condition Review and the client site visit reports contain useful information with respect to the current housing situation in the Attawapiskat First Nation community and their housing management practices; however, the results of these reviews were not communicated to AANDC. CMHC informs us that Client Visit and Physical Condition Review reports are shared with the First Nation, which then has the option, at its discretion, to share them with whomever it wishes. Such reports are classified as 'Protected' and are therefore not shared with third parties, including federal partners, without prior permission of the Attawapiskat First Nation.

CMHC further noted that these reports were only provided to AANDC if CMHC deemed there were significant issues or concerns. Despite the nature of the findings noted by CMHC, no reports on the condition of Attawapiskat First Nation housing were shared by CMHC with AANDC during the period under audit.

## Recommendation:

It is recommended that:

1. The Ministerial Loan Guarantee process should be reviewed, in consultation with CMHC, giving consideration to the following:
  - Developing stricter enforcement practices with respect to eligibility requirements and taking remedial action with regard to non-compliance;
  - Implementing practices to certify completion of housing units by a suitably qualified professional according to National Building Code of Canada standards or an accepted equivalent set of standards;
  - Conducting a risk-based periodic review of First Nation inspection records; and,
  - Developing formal practices (e.g. Memorandum of Understanding between AANDC and CMHC) to require that the results of CMHC Physical Condition Reviews and client visit reports be shared with AANDC as a mandatory requirement of the eligibility process.

Management response / actions	Responsible manager (title)	Planned implementation date
<p>We concur with this recommendation.</p> <p>Lenders providing loans backed by Ministerial Loan Guarantees (MLGs), including CMHC, must assure due diligence with loan management, including prudent lending practices, arrears, default and reporting to AANDC. AANDC will work with lenders to identify opportunities for improving due diligence processes.</p> <p>AANDC is exploring mechanisms for improving National Building Code compliance.</p>	Senior Assistant Deputy Minister, Regional Operations	Q3, 2013-14

### 3.1.2 Capital Facilities and Maintenance (CFM) Program

AANDC's Capital Facilities and Maintenance (CFM) Program provides assistance to First Nations for the establishment of healthy, safe and sustainable communities. Its operational objectives are to make investments that maximize the life cycle of physical assets, mitigate health and safety risks, ensure assets meet applicable codes and standards, and ensure assets are managed in a cost-effective and efficient manner. To meet these objectives, the CFM Program assists eligible recipients to acquire, construct, operate and maintain basic community facilities. The CFM Program also provides financial assistance, in the form of a contribution, to help eligible recipients in the delivery of their community-based housing programs and advisory services to assist First Nations in understanding and executing their roles and responsibilities as they relate to on-reserve housing. Minor core capital is provided by AANDC, in the form of a contribution, to fund minor infrastructure repairs, renovations and upgrades (less than \$1.5M).

As a condition of the funding agreement with AANDC, the First Nation is required to have in place multi-year Community-Based Housing Plans and to provide AANDC with annual updates to their plan to demonstrate their ongoing management of housing. The First Nation is responsible for setting housing targets and reporting on the quantity and condition of housing in their community on an annual basis. With respect to the Attawapiskat First Nation housing activities, AANDC housing funds were provided primarily through minor core capital monies from the CFM Program.

First Nations own and operate housing on-reserve and are responsible for the completion and ongoing management of housing projects. This includes the ongoing maintenance, administration, implementation, and enforcement of housing policies which address the housing needs of the community membership in a fair, open, and transparent manner. The creation of a separate housing authority that is arm's length from community political control have long been advocated to First Nations as a means to



ensure a clear separation of powers in determining the number of housing units required, allocating available homes to tenants, ensuring the ongoing collection of rent, and providing for a regular maintenance routine. However, CMHC indicates that it is not aware of any such entities in Ontario First Nations.

Audit testing found that the Attawapiskat First Nation uses a portion of their CFM Program minor core capital funds to repay loans and payables. This practice was used for all years of the audit period. As an example, the bank loan taken out by the Attawapiskat First Nation for their portion of the cost to service lots in a sub-division (approximately \$2.4M, not secured using an MLG) was repaid over five years by annually deducting from the Attawapiskat First Nation minor core capital allocation. Between 2005-06 and 2011-12, AANDC made available approximately \$6.85M to the Attawapiskat First Nation in minor core capital housing funding, but due to these funding practices, only \$3.6M was actually used by the Attawapiskat First Nation towards housing renovations and maintenance. CFM Program management noted that many First Nations are in fact using their minor capital housing funds to repay housing loans and to service debt.

Although the rationale for this funding approach was well documented, the repeated practice of using minor core capital allocation for the purpose of debt repayment (even if associated with housing) does not allow for clear demonstration of how CFM Program housing objectives will be achieved (i.e. how minor core capital investments made will maximize the life cycle of physical assets, mitigate health and safety risks, ensure assets meet applicable codes and standards, and ensure assets are managed in a cost-effective and efficient manner).

In the BCRs reviewed, the Attawapiskat First Nation Chief and Council agreed to establish rental contracts with First Nation members residing in the units and the Attawapiskat First Nation resolved to operate a separate and distinct record of accounting relating to its housing program and all payments made by occupants. Through interviews and review of financial statements, schedules and management letters, the audit, however, noted several deficiencies with respect to the Attawapiskat First Nation financial management practices which may have had a direct impact on the ability of the Attawapiskat First Nation to effectively manage housing activities. The issues below were repeatedly noted in recurring management letters arising from financial statement audits:

- Withdrawals by the Attawapiskat First Nation from the CMHC Replacement Reserve Account which left the account in a deficit position of \$411K, as of July 2011;
- Subsidized housing (i.e. rent-proportional-to-income) documentation was not being obtained in a timely manner and overdue rent collections were not being sufficiently followed-up upon;
- Insufficient oversight on cheque and payroll disbursements and insufficient collection procedures;
- Meeting minutes to support Band Council Resolutions (BCRs) were not always recorded;
- Program revenues and expenditures were not always recorded accurately;
- Budgets were not prepared;
- There was incomplete, insufficient, and inaccurate bookkeeping noted;
- Expenditures were made without the available funds; and,
- Journal entries were made with no supporting documentation.

A recipient audit of the Attawapiskat First Nation which was performed as part of the comprehensive audit and followed the Canadian Institute of Chartered Accountants' *Assurance Handbook Section 9100, Reports On The Results Of Applying Specified Auditing Procedures To Financial Information Other Than Financial Statements* also noted that a significant number of expenditures recorded by the Attawapiskat First Nation were not supported by appropriate and corroborating evidence.

During the audit, a concern was raised by AANDC interviewees and the Co-Manager regarding the long-term sustainability of the housing situation in the Attawapiskat First Nation community revolved around the ability of the Attawapiskat First Nation to establish an effective Housing Authority, with the necessary policies and enforcement tools (e.g. ability to serve eviction notices) to ensure the regular and rightful collection of rent and performance of routine maintenance. Housing Authorities were suggested by interviewees to be an effective practice in other First Nation communities. Without these necessary policy enforcement tools, there is a greater likelihood of continued disparities in rent collection, and the housing

situation in the community may not improve dramatically. The May 2010 CMHC Attawapiskat First Nation client visit report also included similar recommendations concerning the inadequacy of the Attawapiskat First Nation Housing Policy, insufficient budget reports, underfunding of the Replacement Reserve Fund and a lack of a separate account for the Operating Reserve account, omission of an Arrears Policy in the rental agreement, and incomplete annual inspections and maintenance files for each housing unit (in particular the older units).

Lastly, the audit found discrepancies and inconsistencies in the housing information reported to AANDC and useful, quality and reliable housing reports were not regularly submitted by the Attawapiskat First Nation. The audit found that reports are prepared by the Attawapiskat First Nation, who was occasionally assisted by technical inspectors from Mushkegowuk Tribal Council. The report data is self-reported and is not independently verified by AANDC. AANDC housing performance data is extracted from reports prepared by the Attawapiskat First Nation, in particular, the Housing and Infrastructure Assets Annual (HIAA) Report and the Community-Based Housing Plan. AANDC staff noted that inaccurate and unreliable information was submitted which limited AANDC’s ability to perform a meaningful review of housing performance data. Interviewees noted that validation of reported housing information by AANDC is not feasible, as to do so would require AANDC to have a person on site when the report is being prepared, or require a suitably qualified inspection professional. In addition, AANDC housing reporting requirements such as the Housing and Infrastructure Annual Assets (HIAA) Report do not clearly define what is meant by ‘replacement required’ or ‘renovations required’, making it difficult for AANDC to adequately review or challenge the information reported by the Attawapiskat First Nation and to truly understand how AANDC funds are having an effect on improving Attawapiskat First Nation’s housing conditions. AANDC management noted that AANDC Regional Offices are not asked to explain or provide context for performance reports on housing indicators to AANDC Headquarters.

**Recommendation:**

It is recommended that:

2. The Capital Facilities and Maintenance (CFM) Program terms and conditions should be reviewed, giving consideration to the following:
  - Including eligibility requirements which require demonstrated financial management capability with respect to the First Nation’s housing program (e.g. Replacement Reserve Account, collection practices, reliable housing reports);
  - Adding the requirement that a separate Housing Authority be established as a CFM eligibility requirement;
  - Discontinuing the practice of allowing minor core capital to be used for the purposes of debt repayment; and,
  - Clarifying housing report definitions and develop housing performance indicators which can be used to assess maintenance needs and establish a baseline on which to measure ongoing performance.

Management response / actions	Responsible manager (title)	Planned implementation date
We concur with this recommendation. AANDC will review the CFM Program as it relates to housing, and consider the issues identified by this audit when next renewing the Terms and Conditions for the program.	Senior Assistant Deputy Minister, Regional Operations	Q3, 2013-14

# 4 Management action plan

Recommendations	Management response / actions	Responsible manager (title)	Planned implementation date
<p>1. The Ministerial Loan Guarantee process should be reviewed, in consultation with CMHC, giving consideration to the following:</p> <ul style="list-style-type: none"> <li>• Developing stricter enforcement practices with respect to eligibility requirements and taking remedial action with regard to non-compliance;</li> <li>• Implementing practices to certify completion of housing units by a suitably qualified professional according to National Building Code of Canada standards or an accepted equivalent set of standards;</li> <li>• Conducting a risk-based periodic review of First Nation inspection records; and,</li> <li>• Developing formal practices (e.g. Memorandum of Understanding between AANDC and CMHC) to require that the results of CMHC Physical Condition Reviews and client visit reports be shared with AANDC as a mandatory requirement of the eligibility process.</li> </ul>	<p>We concur with this recommendation.</p> <p>Lenders providing loans backed by Ministerial Loan Guarantees (MLGs), including CMHC, must assure due diligence with loan management, including prudent lending practices, arrears, default and reporting to AANDC. AANDC will work with lenders to identify opportunities for improving due diligence processes.</p> <p>AANDC is exploring mechanisms for improving National Building Code compliance.</p>	<p>Senior Assistant Deputy Minister, Regional Operations</p>	<p>Q3, 2013-14</p>
<p>2. The Capital Facilities and Maintenance (CFM) Program terms and conditions should be reviewed, giving consideration to the following:</p> <ul style="list-style-type: none"> <li>• Including eligibility requirements which require demonstrated financial management capability with respect to the First Nation's housing program (e.g. Replacement Reserve Account, collection practices, reliable housing reports);</li> <li>• Adding the requirement that a separate Housing Authority be established as a CFM eligibility requirement;</li> <li>• Discontinuing the practice of allowing minor core capital to be used for the purposes of debt repayment; and,</li> <li>• Clarifying housing report definitions and developing housing performance indicators which can be used to assess maintenance needs and establish a baseline on which to measure ongoing performance.</li> </ul>	<p>We concur with this recommendation.</p> <p>AANDC will review the CFM Program as it relates to housing, and consider the issues identified by this audit when next renewing the Terms and Conditions for the program.</p>	<p>Senior Assistant Deputy Minister, Regional Operations</p>	<p>Q3, 2013-14</p>

# Appendix A: Audit criteria

The audit objective is linked to audit criteria developed in alignment with Core Management Controls. Additional audit criteria were developed to address specific risks identified in the planning phase.

Audit criteria	
<b>Governance</b>	
1.1	There are clearly defined roles and responsibilities for AANDC and other stakeholders to assist the Attawapiskat First Nation to address their housing needs.
1.2	There is adequate AANDC governance and oversight over housing activities for the Attawapiskat First Nation, including housing plans.
1.3	There are adequate Attawapiskat First Nation management practices in place related to housing activities.
<b>People</b>	
2.1	There is sufficient AANDC resource capacity and capabilities to effectively deliver and manage housing programs.
2.2	Information systems and processes track, accumulate and report housing-related information in a consistent, efficient, effective and timely manner for decision making purposes.
<b>Stewardship</b>	
3.1	Adequate due diligence is exercised in the assessment and approval of Attawapiskat First Nation housing plans, projects, and activities funded by AANDC.
3.2	Allocation of AANDC funding includes steps taken to demonstrate how related housing objectives will be achieved by the funded activity.
3.3	Attawapiskat First Nation housing activities funded by AANDC are eligible for funding, in compliance with AANDC terms and conditions, and used for their intended purposes.
3.4	Financial and performance information related to housing activities is captured and reported in a timely, useful, accurate and complete manner, and reported information is reviewed and approved by AANDC.
3.5	Monitoring and recipient auditing practices specific to housing activities are adequate to ensure: risks are identified and managed; funds are spent as intended; and, reporting of activities and performance results is accurate.
3.6	Compliance activities are conducted on a regular and structured basis to assess whether recipients, program officers, and regional AANDC officers are complying with program policies and procedures.
<b>Results and performance</b>	
4.1	A performance management framework is adequate in measuring and reporting on the achievement of objectives and results related to housing activities.
<b>Accountability</b>	
5.1	Assessment and approval decisions, including amendments and budget adjustments, are executed in a timely manner by AANDC individuals with appropriate delegated authority.
5.2	Payments are made by AANDC persons with appropriate delegated authority.
5.3	Funding commitments to fund housing activities do not exceed authority levels and program budgets.
<b>Risk management</b>	
6.1	A risk management framework sufficient for identifying and assessing risks related to housing activities, and documenting mitigation strategies, has been implemented by AANDC.

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