



Indigenous and
Northern Affairs Canada

Affaires autochtones
et du Nord Canada

Final Report

***Evaluation of the
Impacts of Self-Government
Agreements***

Project Number: 14078

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Evaluation, Performance Measurement,
and Review Branch
Audit and Evaluation Sector



Canada 

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List of Acronyms

INAC	Indigenous and Northern Affairs Canada
CLCA	Comprehensive Land Claim Agreement
CTFN	Carcross/Tagish First Nation
EPMRB	Evaluation, Performance Measurement and Review Branch
EPMRC	Evaluation, Performance Measurement and Review Committee
FNFMA	<i>First Nation Fiscal Management Act</i>
FNLMA	<i>First Nation Land Management Act</i>
SGA	Self-Government Agreement

Executive Summary

The Evaluation, Performance Measurement and Review Branch of Indigenous and Northern Affairs Canada (INAC) conducted an *Evaluation of the Impact of Self-Government Agreements*. The overall purpose of the evaluation is to provide reliable evaluation evidence that will be used to support policy and program improvement and, where required, expenditure management, decision making, and public reporting related to the Strategic Outcome *The Government*. The Terms of Reference for the evaluation were approved at INAC's Evaluation, Performance Measurement and Review Committee on April 25, 2014.

The scope of the evaluation includes stand-alone self-government agreements, comprehensive land claims with related self-government agreements, and sectoral self-government arrangements. The evaluation issue of performance (effectiveness) is the focus of this evaluation.

The evaluation supports the following conclusions regarding the impacts of self-government agreements:

Under the Inherent Right Policy, the Government of Canada's recognition of the inherent right of self-government is based on the view that the Indigenous people of Canada have a right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and resources. As of the launch of the Inherent Right Policy in 1995, Canada has taken both the legal and policy position that Indigenous rights of self-government are included in the rights protected by Section 35 of the *Constitution Act, 1982*. In that regard, Canada has moved ahead of the courts, who have not yet definitively pronounced on the existence and scope of Indigenous rights of self-government. Moreover, implementation of self-government agreements support international norms towards greater recognition of the rights of Indigenous people to self-government as expressed in the *United Nations Declaration on the Rights of Indigenous Peoples*.

Self-governing Indigenous communities view self-government agreements positively. They express a renewed sense of pride in their governments, particularly in relation to the right to elect their own governments, independent decision-making capacity, and being accountable to their own citizens. Under the terms of self-government agreements, there is evidence that structures are in place to support relationship and accountability requirements as well as the transfer of jurisdiction of program structures that allow for law making authority over program and services responsibilities.

By giving greater clarity to an Indigenous group's rights to self-government powers, the Indigenous group is more empowered to govern itself and respond to and improve its own socio-economic conditions and interests through more accountable government. A statistical analysis of socio-economic impacts conducted for this evaluation found positive effects for Indigenous persons living in a census subdivision that has attained a self-government agreement.

The evaluation identified challenges associated with establishing governance, which include the administrative capacity to effectively manage all of the new responsibilities under self-government and the perception that other levels of government have not lived up to the spirit of the self-government agreement. There has also been a reluctance to assume jurisdiction over program and services due to a perceived lack of local capacity and inadequate financial resources, and a reluctance to assume responsibility for program and services areas that are viewed as being historically underfunded.

From a performance measurement and literature perspective, there is limited information related to the impacts of self-government agreements, including limited baseline data to use to compare with current measures of progress as well as current academic research.

It is recommended that INAC:

1. Continue to support research that assesses the socioeconomic impacts of self-government agreements.
2. Work with Indigenous governments in the development of performance measurement strategies that measure progress related to their self-government agreements.
3. Work with other federal government departments and agreement partners to strengthen the implementation of the agreements in order to work towards the achievement of their anticipated outcomes.

Management Response and Action Plan

Project Title: Evaluation of the Impacts of Self-Government Agreements
Project #: 14078

Recommendations	Actions	Responsible Manager (Title / Sector)	Planned Start and Completion Dates
1. Continue to support research that assesses the socioeconomic impacts of self-government agreements.	We do concur.	Director General, Policy Development and Coordination Branch	<i>Start Date:</i> Already begun
	PDCB will work with INAC's Policy and Strategic Direction Sector to identify opportunities to advance research on the impacts of self-government agreements through continued work on the Impact Assessment of Aboriginal Self-Government with 2016 Census data, once it is available, and INAC's Strategic Research Plan.		<i>Completion:</i> <i>Completed</i>
2. Work with Indigenous governments in the development of performance measurement strategies that measure progress related to their self-government agreements.	We do concur.	Director General, Policy Development and Coordination Branch	<i>Start Date:</i> January 19, 2016
	IB will work jointly with the Land Claims Agreement Coalition and other partners to develop performance measurement tools to form part of the annual report required through the Whole of Government Approach to Modern Treaty Implementation.		<i>Completion:</i> Late Spring 2017 <i>Completed</i>
3. Work with other federal government departments and agreement partners to strengthen the implementation of the agreements in order to work towards the achievement of their anticipated outcomes.	We do concur.	Director General, Policy Development and Coordination Branch	<i>Start Date:</i> Already begun
	IB will continue to work with federal department and agencies on the development and roll out of the Whole of Government Approach to Modern Treaty Implementation. This includes setting up the Modern Treaty Implementation Office as well as developing and updating various tools such as guides and training.		<i>Completion:</i> Fall 2016 <i>Completed</i>

I recommend this Management Response and Action Plan for approval by the Evaluation, Performance Measurement and Review Committee

Original signed by:

**Michel Burrowes
Director, Evaluation, Performance Measurement and Review Branch**

I approve the above Management Response and Action Plan

Original signed by:

**Joe Wild
SADM, Treaties and Aboriginal Government**

1. Introduction

1.1 Overview

The Evaluation, Performance Measurement and Review Branch (EPMRB) of Indigenous and Northern Affairs Canada (INAC) undertook an *Evaluation of the Impacts of Self-Government Agreements*. The purpose of the evaluation was to assess the extent to which expected outcomes of self-government agreements are being achieved. It will provide reliable evidence that will be used to support policy and program improvement and, where required, expenditure management, decision making, and public reporting related to the Strategic Outcome *The Government*.

1.2 Profile

1.2.1 Background and Description

Under the Inherent Right Policy, the Government of Canada's recognition of the inherent right of self-government is based on the view that the Indigenous people of Canada have a right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and resources.¹ Self-government agreements set out arrangements for Indigenous groups to govern their internal affairs and assume greater responsibility and control over the decision making that affects their communities. Indigenous self-government is exercised within the framework of the Canadian Constitution, including the application of the *Canadian Charter of Rights and Freedoms*.

The other significant feature of self-government agreements is the change in relationship between the parties. A new relationship is created wherein Indigenous signatories constitute governments in their own right. As a result, the parties to the agreements form government-to-government relationships that transform how they relate to and collaborate with one another.

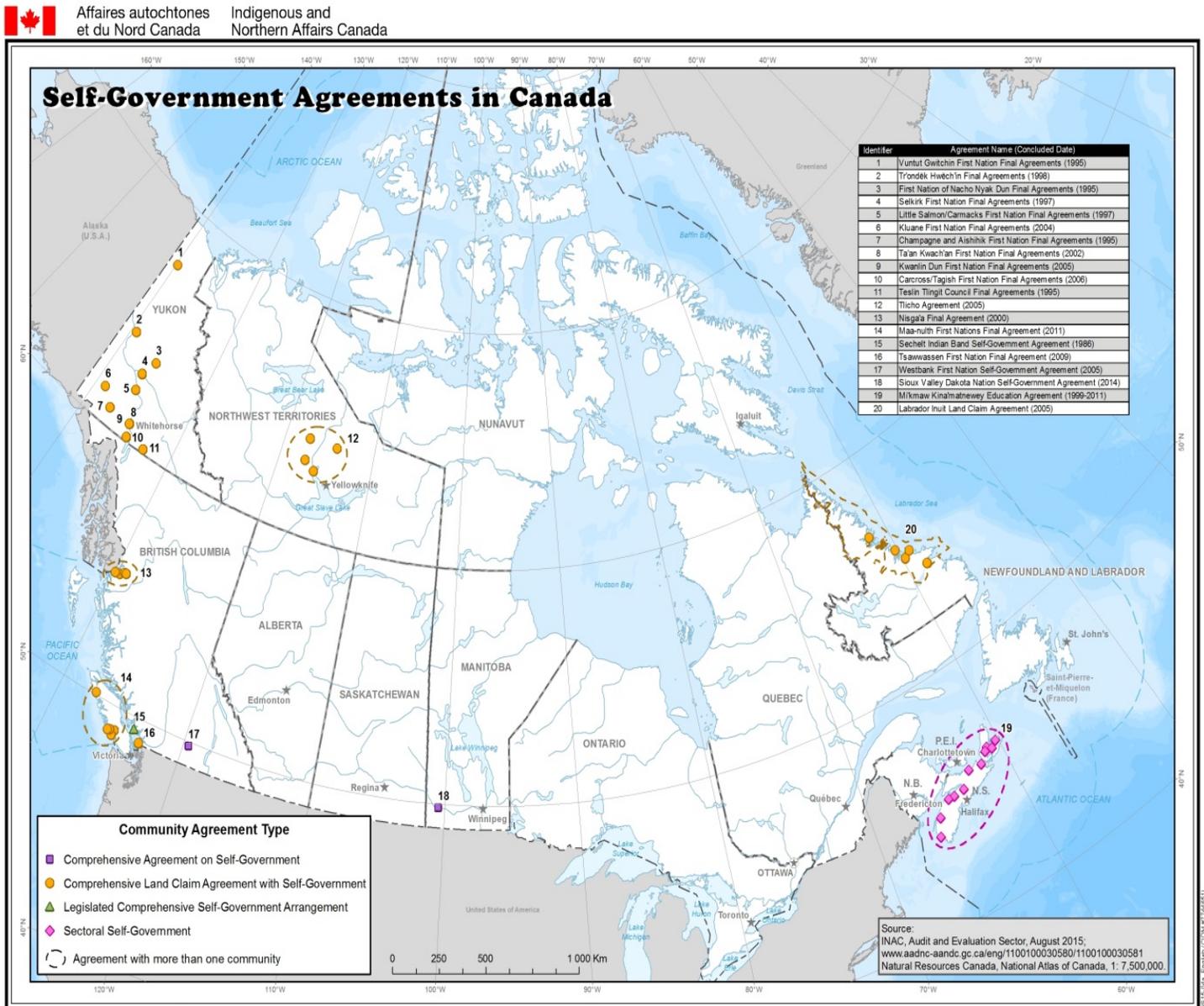
There are currently 22 self-government agreements in place.

- Eighteen comprehensive land claim agreements with self-government – *defined as both a comprehensive land claim and self-government agreement*; and
- Four stand-alone self-government agreements– *defined as self-government agreement with no land claim component*.
- There is also one sectoral self-government agreement – *defined as self-governing jurisdiction over specific subject matter such as education, governance, child and family services*.

¹ Currently, self-government is negotiated and implemented based on the *Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government* (1995) - most commonly referred to as the Inherent Right Policy.

In addition, a form of self-government arrangement with the *Cree-Naskapi (of Quebec) Act* gives effect to nine Cree communities and one Naskapi community on local government commitments contained in the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement.

The map below illustrates where self-government agreements are currently in effect in Canada. Appendix A provides a detailed list of all agreements, including the Yale Final Agreement, the Tla'amin Final Agreement and the Déline Final Self-Government Agreement which have all been signed, but are not yet in effect.



Services géomatiques, décembre 2015.
Geomatics Services, December 2015.



There are also 16 self-government negotiation tables in the final agreement stage: seven comprehensive land claim and self-government table negotiations; seven sectoral self-government table negotiations; and two stand-alone self-government table negotiations.

1.2.2 Objectives and Expected Outcomes

The implementation of self-government agreements is a component within 1.3 - Management and Implementation of Agreements and Treaties - of the 2015-16 Performance Measurement Framework. The expected result of 1.3 is the creation and maintenance of ongoing partnerships to support treaty structures.

The objective of self-government is to strengthen Indigenous communities by supporting stable and sustainable Indigenous governments and greater self-reliance.

Long-term results:

- Strong and self-reliant Indigenous individuals, communities, groups and governments.

Immediate and intermediate results:

- *Governance*: Current relationships supported and new relationships established which will result in stable and sustainable Indigenous governments.
- *Programs and Services*: Program and service responsibilities established which will result in control and jurisdiction over programs and services.

See Appendix B for the logic model, which further details the expected outcomes of self-government agreements.²

1.2.3 Management and Accountability

All parties are responsible for working together to implement the provisions of their agreements, for setting priorities, evaluating progress and making adjustments as necessary. The Implementation Branch of the Treaties and Aboriginal Government Sector of INAC oversees and coordinates the cross-departmental federal role in the implementation of comprehensive land claims and self-government agreements.

The Federal Steering Committee on Comprehensive Claims and Self-Government and the Federal Caucus on Self-Government and Comprehensive Claims are related bodies designed to maintain oversight across the federal system of comprehensive land claims and self-government related activities.

There have been two major initiatives that were released in July of 2015 that are changing the way the federal government is negotiating and implementing self-government.

² As found in the Performance Measurement Strategy, 1.3 Implementation of Comprehensive Land Claims and Self-Government Agreements, November 28, 2014, Treaties and Aboriginal Government, AANDC.

Whole-of-Government Approach

A whole-of-government approach to the implementation of modern treaties and self-government agreements is designed to improve departments' and agencies' awareness of, and accountability for, their responsibilities under these agreements. It is also designed to establish ongoing oversight for the full scope of Canada's responsibilities. This new approach includes the:

- Release of the *Cabinet Directive on the Federal Approach to Modern Treaty Implementation* that defines the roles and responsibilities of federal departments and requires departments to assess program, policy, regulatory and legislative proposals to ensure that the treaties are respected;
- Establishment of a Deputy Ministers' Oversight Committee to provide ongoing, executive level oversight of Canada's modern treaty obligations; and
- Creation of a Modern Treaty Implementation Office within INAC to strengthen coordination and oversight across the federal system.

Canada's Fiscal Approach for Self-Government Arrangements

The Government of Canada released a new policy for implementing fiscal arrangements with self-governing Indigenous groups. This new policy framework is intended to mark the beginning of a more consistent, timely, transparent, fair and collaborative approach to address fiscal policy over the long term that builds upon a mutually beneficial relationship between Indigenous governments and Canada.

With the release of this fiscal approach, Canada has moved towards a common framework for all self-government arrangements that ensures greater transparency and equity in the determination of federal transfers to Indigenous governments. Funding methodologies and the underlying policy approach will now be transparent instead of being treated as confidential negotiating mandates. The approach will help to ensure the benefits of self-government are fully realized by bringing greater consistency, timeliness and fairness to the process of implementing fiscal arrangements with Indigenous governments.

1.2.4 Key Stakeholders and Beneficiaries

The primary stakeholders of self-government agreements are the Indigenous signatory groups, the federal government, and the relevant provincial/territorial government when a provincial/territorial government is a signatory to the agreement. All parties must work cooperatively towards the fulfillment of the obligations under the agreements in a transparent and accountable manner. The parties to an agreement have both party-specific and joint obligations to fulfill.

Although all Canadians, federal/provincial/territorial governments, and business/industry are expected to benefit from the settlement and implementation of self-government agreements, the primary beneficiaries are expected to be the Indigenous signatory groups as they are primarily accountable for the success of their government and its various institutions.

1.2.5 Resources

Table 1: Program Resources INAC Self-Government Implementation - 2010-11 to 2014-15 ³

	2010-11 (actuals)	2011-12 (actuals)	2012-13 (actuals)	2013-14 (actuals)	2014-15 (actuals)	5 Year Total (actuals)
V01 - Operating Expenditures	690,866	1,113,351	831,787	686,911	61,560	3,384,475
V10 – Grants and Contributions	329,118,235	387,656,338	399,175,001	405,935,863	426,681,862	1,948,567,299
Total - Vote 1 and 10	329,809,101	388,769,689	400,006,788	406,622,774	426,743,422	1,951,951,774

Implementation Self-Government Agreements are supported by the following Transfer Payment Program Authorities.

- *Contributions to support the negotiation and implementation of Treaties, Claims and self-government agreements or initiatives*
- *Grants to implement comprehensive land claims and self-government agreements*
- *Grant to Participating First Nations and the First Nation Education Authority*
- *Contribution to support First Nations Elementary and Secondary Educational Advancement*

1.2.6 Previous Evaluation and Audit Activities

Evaluations

The following describes the numerous evaluations have been undertaken during two five-year time periods in order to provide full evaluative coverage of all financial authorities related to comprehensive land claims and self-government. This current evaluation assessing the impacts of self-government will complete the three prong approach to evaluative work related to land claims and self-government during this current five year time period (2011-2016). INAC approach to evaluating land claims and self-government agreements is further described in Appendix C.

Evaluations – Five year time period (2011 – 2016)

An *Evaluation of the Impacts of Comprehensive Land Claim and Self-Government Agreements* assessed the impacts of comprehensive land claim and self-governments agreements and was conducted jointly with a participating Indigenous signatory group. This evaluation was approved at the November 2013 Evaluation, Performance Measurement and Review Committee (EPMRC). The evaluation found that comprehensive land claims and self-government agreements have put in places structures for governance, program and services, land and resource management, and economic development. One of the challenges remains the perception that modern treaty

³ Financial figures include financial information from following functional areas as per INAC Chart of Accounts: James Bay Northern Quebec Education Agreement - G6105; Mi'kmaq Education Authority - G6106; British Columbia First Nations Education Jurisdiction - G6107; Self-Government Implementation - G6121; and Cree-Naskapi Commission - G6123.

obligations have not been fully implemented resulting in barriers to progress. This is supported by social and economic indicators that suggest that Indigenous signatory groups lag behind both the non-Indigenous population and the Indigenous identity population in education, income, and labour force characteristics. INAC has begun to address the recommendations stemming from this evaluation, which include continuing with the Implementation Change Agenda by strengthen the “whole of government approach” to monitoring and implementing treaty obligations and risks; undertaking a research agenda to support the monitoring of the impacts of modern treaties and to improve results-based reporting; and coordinating the ongoing monitoring of the effectiveness of the implementation of modern treaties.

An Evaluation for the Process for Negotiating Comprehensive Land Claims and Self-Government Agreements was also approved at the November 2013 EPMRC. The evaluation concluded that modern treaties are arguably not capable of achieving the same certainty and finality that government initially anticipated as there is now a very complex and shifting legal and constitutional framework. The most fundamental evolution in Indigenous law impacting on the negotiation and implementation modern treaties has been the Supreme Court of Canada’s shift in focus to “reconciliation” and “honour of the Crown” and the “duty to consult”. The evaluation recommended that INAC adopt a proactive policy approach to more effectively manage and respond to risks and strategically shape or influence the evolving legal framework. INAC accepted this recommendation and is currently implementing a policy approach in order to achieve more timely results, while also exploring strategic alternatives to address Indigenous rights, and promote economic development and self-sufficiency.

Evaluations – Five year time period (2006 – 2011)

An Impact Evaluation of Comprehensive Land Claim Agreements was approved at the Audit and Evaluation Committee in February 2009. The evaluation found that the agreements have brought clarity and certainty to settlement lands, enabling Indigenous groups to benefit from resource development and helping to create a positive environment for investment. The agreements have also had a positive impact on the role of Indigenous people in their settlement area’s economy and their relations with industry as well as ensuring that they have a meaningful and effective voice in land and resource management decision making. However, there has been insufficient recognition by the federal government of the costs associated with the consultative approach and the land and resource management structures. There is also the perception among Indigenous officials that the federal government has been primarily interested in addressing the letter of the agreements and not the true spirit and intent, resulting in barriers to progress.

An Evaluation of the Federal Government’s Implementation of Self-Government and Self-Government Agreements was approved at the February 2011 EPMRC. The evaluation found that the Inherent Right Policy has provided a flexible framework from which self-government has been, and continues to be, negotiated and that positive impacts have been demonstrated within self-governing communities. However, a lack of shared vision exists between the federal government and Indigenous communities regarding self-government and how it is to be operationalized within the framework of the Inherent Right Policy. National Aboriginal Organizations have been highly critical of the Inherent Right Policy and Indigenous governments have expressed difficulty in establishing a government-to-government relationship with the Crown. This may be contributing to misunderstandings and miscommunications regarding the interpretation of the policy and contributing to the high level of frustration that exists among Indigenous organizations and Indigenous communities about what has been accomplished under the Inherent Right Policy.

Moreover, a number of inefficiencies in both the negotiation and implementation processes have been identified, many of which are currently being addressed by INAC.

Audits

An *Audit of the Implementation of Modern Treaty Obligations* was completed in September 2013 by the departmental Audit and Assurances Services. The audit found that the Department had taken significant steps in establishing foundational elements to manage and coordinate the federal responsibilities as outlined within the specific agreements. This included the establishment of the Implementation Management Framework, the establishment of the governance structures and the development of tools and guidance documents to help other government departments fulfill their own obligations. However, to strengthen the effectiveness of the governance structures and to support and manage the implementation of the federal obligations, the audit identified opportunities to improve key elements of the Implementation Management Framework, including designing formal responsibilities and business processes for proactive monitoring of the status of federal obligations, establishing foundational elements of the regional caucuses and developing formal orientation materials for new members of the oversight bodies representing the federal governance structure.

An *Audit of Management of Negotiated Loans* was completed in February of 2013. Overall conclusions are that INAC has implemented key governance and operational processes and controls to support the efficient and effective delivery of required services and support to the loans management process. There are, however, opportunities where improvements could be made in the areas of governance, risk management and stewardship. These include the establishment of clear objectives specific to negotiation loans, as well as performance measures to further support monitoring of the status and collectability of negotiation loans. INAC is implementing all recommendation stemming from the audit.

2. Evaluation Methodology

2.1 Evaluation Scope and Timing

Terms of Reference for the evaluation were approved at the April 2014 EPMRC. The evaluation was conducted internally within EPMRB, with component analyses contracted externally to specialists. These include a statistical analysis by Dr. Ravi Pendakur, University of Ottawa and Dr. Krishna Pendakur, Simon Fraser University; a literature review by Dr. David Newhouse, Trent University, Dr. Kevin Fitzmaurice, University of Sudbury, and Dr. Yale Belanger, Lethbridge University; and assistance with conducting key informant interviews by Alderson-Gill and Associates.

The scope of the evaluation includes stand-alone self-government agreements, comprehensive land claims with related self-government agreements, and sectoral self-government arrangements. Stand-alone land claim agreements were not included in this evaluation.

As per the logic model (see Appendix B), the evaluation focused on the impacts of governance and programs and services. The impacts of lands and resources and economic development were undertaken as part of the *Evaluation of the Impacts of Comprehensive Land Claim and Self-Government Agreements* completed in November 2013.

The evaluation issue of performance (effectiveness) is the focus of this evaluation. The evaluation issue of performance (efficiency and economy) was included in the *Evaluation for the Process for Negotiating Comprehensive Land Claims and Self-Government Agreements*, completed in November 2013 and the evaluation issue of relevance was included in the *Evaluation of the Impacts of Comprehensive Land Claim and Self-Government Agreements* completed in November 2013.

2.2 Evaluation Approach

A joint approach to evaluation work between Canada and Indigenous signatory groups when assessing the impacts of land claims and self-government agreements was undertaken as part of this evaluation. Tsawwassen First Nation and Carcross/Tagish First Nation both participated through engaging in a key informant interview process.

See Appendix C for more details regarding INAC approach to evaluating land claims and self-government agreements.

2.3 Evaluation Issue

Performance - Effectiveness⁴

Achievement of Expected Outcomes – Assessment of progress towards expected outcomes.

- *Long-term results:* Strong and self-reliant Indigenous individuals, communities, groups and governments.
- *Immediate and intermediate results: Governance:* Current relationships supported and new relationships established, which will result in stable and sustainable Indigenous governments. *Programs and Services:* Program and service responsibilities established which will result in control and jurisdiction over programs and services.

2.4 Evaluation Methodology

2.4.1 Data Sources

The evaluation's findings and conclusions are based on the analysis and triangulation of the following multiple lines of evidence:

Document and Literature Review

Review of Memoranda to Cabinet, Treasury Board submissions, data collected through the performance measurement strategy, previous evaluations and audits, internal documents related to the performance of self-government agreements, and INAC policy and performance reports.

The literature review focused on documents related to the impacts of self-government agreements. See Appendix D for the list of documents reviewed as part of the literature review.

File Review

A file review was conducted to assess the extent to which each agreement was aligned with policy objectives and established structures to support the intended outcomes. Information for the file review was based on government approval documents, the final agreements and any associated side agreements (e.g. a fiscal financing agreement), implementation annual reports and any publically available information such as a public registry of laws for an Indigenous signatory group. The review included the following 11 self-government arrangements.

⁴ This evaluation dealt only with the evaluation issue of Performance – Effectiveness. The evaluation issue of Relevance was addressed in the *Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements* (2013). Evaluation issue of Performance -Efficiency and Economy was addressed in the *Evaluation of the Negotiation of Comprehensive Land Claims and Self-Government Agreements* (2013). See Appendix C for details on INAC approach to evaluating land claims and self-government agreements.

- Nisga’a Final Agreement (British Columbia)
- Tsawwassen Final Agreement (British Columbia)
- *Sechelt Indian Band Self-Government Act* (British Columbia)
- Westbank First Nation Self-Government Agreement (British Columbia)
- Tr’ondëk Hwëch’in Self-Government Agreement (Yukon)
- Kluane First Nation Self-Government Agreement (Yukon)
- Carcross/Tagish First Nation Self-Government Agreement (Yukon)
- Tlicho Agreement (Northwest Territories)
- Labrador Inuit Agreement (Newfoundland and Labrador)
- *Mi’kmaq Education Act* (Nova Scotia)
- Sioux Valley Dakota Nation Self-Government Agreement (Manitoba)

Statistical Analysis

An analysis was conducted to assess the contribution that individual self-government agreements are making to the achievement of the intended long-term outcomes. It uses regression analysis from data from the Census (1991-2006) and National Household Survey (2011) to compare social and economic outcomes for people living in Indigenous Census subdivisions with Self-Government Agreements (SGAs) to those of people living in Indigenous communities with Comprehensive Land Claim Agreements (CLCAs), opt-in legislation⁵ or no agreement. Analysis was conducted at three levels:

- Individual characteristics: Total individual income, individual income from wages and salaries, and labour force attachment;
- Household characteristics: total household income, household government transfer income, and crowding; and
- Census subdivision characteristics using Community Well-being Index scores as well as component scores.

A “difference in difference” regression approach was undertaken. This analytic technique allowed the researchers to focus their attention on how *differences* in arrangements in a given community correlate with *differences* in the well-being of individual community residents.

Analyses are conducted for both the total population in an Indigenous Census subdivision, the Indigenous identity population, and the registered and non-registered Indigenous population. This approach allowed for the control for differences across communities that are fixed over time, but which may determine what arrangement they are under. This means that the analysis was able to isolate the impact of having an agreement independent of how well the community was doing before getting an agreement.

⁵ Opt-in legislation arrangements provide First Nations with the means to opt-out of certain provisions of the *Indian Act* and opt-in to alternative arrangements. This study considers two opt-in legislations models that had agreements in place during the study’s time frame: the 1999 *First Nations Land Management Act* and the 2006 *First Nations Fiscal Management Act*.

The sample includes 15 SGAs associated with 41 Indigenous Census subdivisions. The comparison group includes six CLCAs (without SGAs) comprised of 68 Census subdivisions, 52 FNFMA and 28 FNLMA arrangements associated with 137 Indigenous Census subdivisions as well as roughly 800 Indigenous Census subdivisions without an agreement or arrangement.⁶

Legal Landscape

An analysis was conducted to inform how the legal landscape related to self-government has evolved.

Key Informant Interviews (n=43)

Key informant interviews were conducted with representatives from the following groups:

- INAC n=8
- Provincial and territorial governments n=6
- Indigenous signatories to self-government agreements n=27, *including*:
 - Tsawwassen First Nation n=5
 - Carcross/Tagish First Nation n=13
 - Representatives from other Indigenous governments n=9
- Indigenous organizations n=2

2.4.2 Considerations, Strengths and Limitations

Considerations:

- The evaluation focused solely on the evaluation issue of Performance (Effectiveness). The evaluation issue of Relevance was assessed in the *Evaluation of Impacts of Comprehensive Land Claims and Self-Government Agreements* (June 2013). The evaluation issue of Performance (Efficiency and Economy) was assessed in the *Evaluation of the Negotiations of Comprehensive Land Claims and Self-Government Agreements* (November 2013) as well as in the *Audit of the Implementation of Modern Treaty Obligations* (September 2013).
- The federal government has launched two key initiatives related to the implementation of land claims and self-government in July of 2015. They include the new policy for implementing fiscal arrangement and the whole-of-government approach to the implementation of modern treaties and self-government agreements. The impact of these initiatives will be measured at a later date.

Strengths:

- As there is no requirement under self-government agreements for an Indigenous signatory group to participate in performance measurement and evaluation processes, there is currently a reliance on periodic evaluations, in which Indigenous signatory groups agree to participate, to support performance measurement and evaluation. These evaluations undertaken by INAC are contributing to the body of knowledge regarding the impacts of land claims and self-government - both qualitatively and quantitatively.

⁶ Pendakur, Kristna and Ravi Pendakur, *An Analysis of the Socio-Economic Outcomes of Aboriginal Peoples living in Communities Associated with Self-Government Agreements*, November 2015.

- The statistical analysis undertaken for this evaluation was able to isolate the impact of attaining a self-government agreement independent of how well the community was doing before getting an agreement.

Limitations:

- Implementation of self-government is a long-term process, which will take many years to realize the full impacts.
- There is limited ongoing performance data related to many aspects of the logic model, including limited baseline data to use to compare with current measures of progress and quantitative and qualitative data to support immediate and intermediate level results related to governance and program and services. This includes data within Indigenous, federal, and provincial/territorial governments.
- Literature on the impact of self-government agreements is sparse, limited and spotty. The academic community has not turned its attention in any systematic fashion to assessing the impacts of these agreements upon Indigenous communities.
- The joint evaluative approach was limited to key informant interviews with Indigenous government officials. No focus group sessions were conducted with community members due to time constraints within the communities.

2.5 Quality Assurance

The evaluation was directed and managed by EPMRB in line with the EPMRB's Engagement Policy and Quality Control Process. Quality assurance was provided through the activities of the working group and an advisory group comprised of representatives from the Treaties and Aboriginal Government Sector, Implementation Branch and Policy Development and Coordination Branch.

3. Context

3.1 International

The negotiation and implementation of self-government agreements support international norms towards greater recognition of the rights of Indigenous people to self-government as expressed in the *United Nations Declaration on the Rights of Indigenous Peoples*, to which Canada became a signatory in November 2010. As stated in Article 4 of the Declaration,

*Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.*⁷

3.2 Legal

Canadian courts have recognized that Section 35 of the *Constitution Act, 1982* (“Section 35”) can include the right to self-government. However, to date they have set a high standard for proving the existence and extent of such a right.⁸ At the same time, the Supreme Court of Canada has repeatedly highlighted the importance of Section 35 in achieving reconciliation between Indigenous groups and the Crown. The Court has also repeatedly emphasized that the Crown and Indigenous peoples should negotiate arrangements that address their historic grievances and Section 35 issues.

The Inherent Right Policy is based “*on the premise*” that the inherent right of self-government is an existing Indigenous right within the meaning of Section 35. As of the launch of the Inherent Right Policy in 1995, Canada has taken both the legal and policy position that Indigenous rights of self-government are included in the rights protected by Section 35. In that regard, Canada has moved ahead of the courts, who have not yet definitively pronounced on the existence and scope of Indigenous rights of self-government.

The powers which are likely to fall within an inherent right of self-government would be those that are *integral* to a distinctive Indigenous group’s culture, are related to matters *internal* to that Indigenous community, and are not inconsistent with the overall sovereignty of the Canadian government. That legal view is not inconsistent with the possibility that an Indigenous government could be considered to be the primary law making authority within the limited exercise of certain powers that are integral to that group’s culture and purely internal to that collectivity. It is therefore possible, in relation to certain areas, for Indigenous laws to have paramouncy over conflicting federal or provincial laws. Consistent with Canada’s understanding of the existing jurisprudence, the precise powers that comprise an inherent right of self-government would vary depending upon the history of the Indigenous group in question.

⁷ *United Nations Declaration on the Rights of Indigenous Peoples*, Adopted by the General Assembly Resolution 61/295 on 13 September 2007.

⁸ *R. v. Pamajewon* [1996] 2 SCR 821. In which the Court, although not deciding that Section 35 included self-government rights, did state that if this were the case, the claim to self-government should be looked at the same way as all other Aboriginal rights claims. See also *Mitchell v. Minister of National Revenue*, 2001 SCC 33.

At the same time, the Inherent Right Policy goes considerably beyond the confines of the underlying legal theory. It provides for the negotiation of practical self-government arrangements that are not predicated upon the establishment or recognition of legally enforceable Indigenous rights, but are tailored to meet the practical circumstances of the Indigenous groups in question. Consistent with this approach, the Inherent Right Policy contemplates a wide range of self-government arrangements with various Indigenous groups across the country, including both constitutionally protected and non-constitutionally protected self-government agreements. The policy also contemplates the exercise by Indigenous governments of authorities in areas that do not necessarily fall within the scope of an inherent right of self-government as a strict matter of law.

Another significant aspect of the Inherent Right Policy relates to the legal protection that is available for negotiated self-government agreements. The policy contemplates the use of different instruments, the highest degree of legal protection being conferred by the negotiation of a self-government arrangement as part of a Treaty (Land Claims Agreement) since those rights will be constitutionally protected. However, it is the federal position that the treaty route for self-government arrangements is available only where the relevant province agrees. This reflects the legal view that, without a constitutional amendment explicitly recognizing the inherent right of self-government, the conferral of constitutional protection on such arrangements requires trilateral involvement of all three governments – federal, provincial and Indigenous – whose law-making powers are at issue. The Inherent Right Policy also provides for the conclusion of self-government agreements that do not receive constitutional protection as part of comprehensive treaties, but which are nevertheless confirmed by federal legislation and constitute binding contracts between Indigenous parties and the federal Crown.

On February 5, 2013, the British Columbia Court of Appeal issued a decision unanimously upholding the constitutional validity of the Nisga'a Nation's treaty right of self-government.⁹ In doing so, it determined it need not, and should not, decide the source of the Nisga'a treaty right of self-government, agreeing with Canada's position that it is unnecessary to decide whether some or all of the self-government powers derive from an inherent Indigenous right of self-government or were delegated powers. In either case, the rights were validly included in the Nisga'a Final Agreement by the agreement of the three parties (Canada, British Columbia and the Nisga'a Nation) and the passage of Settlement legislation by Parliament and the British Columbia Legislature. This decision is fully supportive of Canada's Inherent Right Policy and the legal theory that supports it.¹⁰

⁹ *Sga'nism Sim'angit (Chief Mountain) et al. v. Canada (Attorney General)*, 2013 BCCA 49, leave to appeal to the Supreme Court of Canada dismissed on August 22, 2013.

¹⁰ In 2000 the BC Supreme Court heard and dismissed a very similar challenge to the constitutional validity of the Nisga'a Final Agreement, *Campbell et al. v. Attorney General of BC et al.*, 2000 BCSC 1123.

3.3 Literature

First Nations leaders have long argued that self-government is not a new concept but rather one preceding the arrival of newcomers to North America, inherent, and based upon local sovereignty, resulting, therefore, in a right to govern local affairs.¹¹

A review of the literature suggests that prior to the 1960s, Indigenous self-government as a concept did not exist in the minds of Canadian politicians. Following the White Paper, Indigenous leaders throughout Canada took it upon themselves to lead their organizations into developing position papers calling for increased decision-making powers at the reserve and community level. Beginning with an examination of the Indian Association of Alberta's Red Paper of 1970 and the Manitoba Indian Brotherhood's release of Whabung in 1971, Indigenous groups during the 1970s began to lay the foundation for what would become the political ideal of Indigenous self-government.

Following this flurry of activity, the early part of the 1980s was dominated by the Government's desire to patriate Canada's Constitution from Britain. The newly revised *Constitution Act* of 1982 recognizing Indigenous rights led to four First Minister's Conferences to discuss the issue of Indigenous self-government and how it should proceed.

The 1990s was a period of negotiations and academic involvement in further refining the exigencies of Indigenous self-government. With the effective establishment of a state regime over the definition of Indigenous self-government in place, academics began to involve themselves in exploring what self-government was and how the Canadian state could more effectively incorporate this ideal into its political and legal regimes. The Government also began to assert that self-government was an inherent right, exhibiting an outwardly liberal approach. Unfortunately, what was missing from this discourse was the grassroots and political voices that were so prevalent just two decades ago in the formation of the self-government ideal.

Through a detailed examination of the literature of the period, one can see this progression of the development of Indigenous self-government as a local concern to the Government and Indigenous political elite appropriating the ideal and controlling its evolution. The threads of the initial discourse regarding Indigenous self-government are woven into contemporary notions of what Indigenous self-government represents, although the initial philosophy was Indigenous controlled whereas the scope of what self-government is and the direction this concept will take now rests primarily with the Canadian government.

The Sechelt Agreement of 1986 introduced the concept of Indigenous self-government to the larger Canadian public. An obscure and ill-defined concept at the time of the Constitution's repatriation from England in 1982, the *Sechelt Indian Self-Government Act* provided an early operational definition. Since then, the concept of Indigenous self-government has been expanded through a series of land claims agreements and self-government agreements and given a solid foundation in the models proposed by the Royal Commission on Aboriginal Peoples, which set out, in some sense, the political ideals to be pursued.

¹¹ Belanger, Yale D. (2008). *Future Prospects for Aboriginal Self-Government* in *Aboriginal Self-Government – Current Trends and Issues*. edited by Yale D. Belanger. (p.395).

Self-government is growing in complexity and context. There are various elements to self-government that go beyond negotiating inter-jurisdictional agreements or fostering corporate-First Nations relations. There are incremental treaty arrangements, for example, one of many models available to First Nations lacking a treaty, or that do not want to negotiate a treaty that can provide protective authority as negotiations proceed toward more crisply define powers of local governance. This provides a level of political certainty that can for example limit territorial access as the negotiations unfold. Many First Nations have also chosen to opt into legislation such the *First Nations Land Management Act* as opposed to negotiating self-government. These approaches do not fit the traditional Canadian understanding of what Indigenous self-government could become but rather offer insights into the myriad of ways that First Nations are conceptualizing self-government and how and why they choose various approaches.

No national, comprehensive literature review has been produced since 2004 examining the exigencies of Indigenous self-government in Canada. Academic writing on Indigenous self-government in Canada post 2004 can be characterized as moving from a hopeful 'literature of possibility' towards notions of a more independent Indigenous political and cultural resurgence. The conceptualization of Indigenous self-government has shifted from a view that saw it as a potential contributor to community wellness and healing and an inherent right, recognized within the Canadian constitution, to the critical view that it is a neo-liberal/colonial mechanism for greater hegemonic inclusion and control over Indigenous people in Canada.

The academic literature examining the impact of self-government agreements is sparse, limited and spotty. The academic community has not turned its attention in any systematic fashion to assessing the impact of these new agreements upon Indigenous communities. There is a significant gap in literature exploring the many dimensions and complex developments of Indigenous self-government in Canada. There is pressing need to bring academic focus back to the agreements themselves so as to assess their socioeconomic impacts.

See Appendix D for the reference list.

Recommendation 1:

It is recommended that INAC continue to support research that assesses the socioeconomic impacts of self-government agreements.

4. Evaluation Findings – Socio-Economic Impacts of Self-Government Agreements

The Harvard Project on American Indian Economic Development research has demonstrated that economic development and self-sufficiency are closely linked to the existence of three critical factors:

- Practical sovereignty, meaning genuine decision-making power over internal affairs, governance, resources, institutions, and development strategies;
- Capable governing institutions, which exercise power effectively, responsibly, and reliably; and
- Cultural match, which are formal institutions of government that match Indigenous conceptions of how authority should be organized and exercised.¹²

As stated by Stephen Cornell of the Harvard Project before the Standing Senate Committee on Aboriginal Peoples:

*In essence, where the decision-making power of the Indigenous nation itself has risen, the possibilities for development have also risen as well... Indeed, we think jurisdiction and capable governance will get you further in the absence of other development assets than ample developments assets will get you in the absence of jurisdiction and capable government.*¹³

In order to assess the long-term results of self-government agreements in Canada and to measure the actual effect of attaining an agreement, an analysis of socio-economic indicators based on Census (1991-2006) and National Household Survey (2011) was undertaken as part of this evaluation.¹⁴ The analysis was conducted at three levels:

Individual characteristics

- Total individual income (*detailed in Section 4.1*)
- Individual income from wages and salaries (*detailed in Section 4.2*)
- Labour force attachment (*detailed in Section 4.3*)

Household characteristics

- Total household income (*detailed in Section 4.4*)
- Household government transfer income (*detailed in Section 4.5*)
- Crowding (*detailed in Section 4.6*)

¹² Stephen Cornell, *Statement on tribal self-governance and nation-building by Professor Stephen Cornell before the Standing Committee on Aboriginal Affairs*, House of Commons, Ottawa, Canada, June 6, 2000.

¹³ Stephen Cornell, *Proceedings of the Senate Standing Committee on Aboriginal Peoples*, Issue 2 – Evidence, Meeting of December 1, 2004.

¹⁴ The issue that is often raised is that communities with self-government were already doing better before they attained an agreement and therefore one cannot link the improvements to the self-government arrangements that have been put in place. The importance of this current analysis is that it has been able to isolate the impact of attaining the agreement independent of how well the community was doing before getting an agreement.

Census subdivision characteristics

- Community Well-being Index scores (*detailed in Section 4.7*)
 - Total score
 - Education score
 - Labour force score
 - Income score
 - Housing score

This research compared outcomes for people living in Indigenous Census subdivisions with SGAs to those of people living in Indigenous communities with CLCAs, opt-in legislation (FNFMA and FNLMA) or no agreement or opt-in legislation. After controlling for age, education, marital status, household size, and official language knowledge as well as Indigenous status, the research found positive effects for Indigenous persons living in a Census subdivision that has a self-government agreement, which include:

- Positive effects on total incomes
- Small positive impacts on labour force attachment
- Household incomes raised
- Household crowding reduced
- Community Well-being and all of its component indices rise (though still remain below the non-Indigenous population)

The following provides details of these findings.

4.1 Total Income

Attaining an SGA – main benefits to Indigenous men

41 percent increase in total income for unregistered Indigenous men

13 percent increase to Indigenous identity men

No measureable effects on women's total income

Attaining a CLCA – substantial benefits across all groups

26 percent/38 percent increase in total income for male/female population

42 percent/49 percent increase in total income for male/female non-Indigenous population

23 percent/36 percent increase in total income for male/female Indigenous identity population

20 percent/35 percent increase in total income for male/female unregistered Indigenous population

39 percent/44 percent increase in total income for male/female registered Indigenous population

Attaining a FNFMA / FNLMA – FNFMA benefits non-Indigenous people

22 percent increase in total income for non-Indigenous males under FNFMA

Eight percent increase in total income for non-Indigenous females under FNFMA

Looking first at Table 2 Regression Set 1, we see results for the average effect of the four distinct agreement types on the individual total income for women and men as compared to those living in a Census subdivision without an agreement. These agreement types are exclusive except that some Census subdivisions have both FNLMA and FNFMA. For women, we see a very striking pattern. The individual total incomes of women are unaffected by SGAs, FNLMA and FNFMA. But, the individual total incomes of women are 38 percent higher if their community attains a CLCA. For men, living in a Census subdivision with an agreement is correlated with higher incomes. Men living in a Census subdivision with a SGA see earnings 11 percent higher than those living in a Census subdivision with no agreement or arrangement. As was the case for women, for men we see that CLCAs are associated with a 26 percent increase in individual total income, and that living in a Census subdivision with an FNFMA or FNLMA is associated with an increase of 10 percent and seven percent respectively.

However, the effects are uneven across groups (Regression sets 2 and 3). Looking at the results for FNLMA and FNFMA, neither opt-in legislation has any statistically significant effects for any Indigenous group, but benefit the non-Indigenous population. We see that the effect of living in a Census subdivision with an SGA does differ by Indigenous status (see Regression Set 3) with unregistered Indigenous males benefiting the most from SGA with an increase of 41 percent.

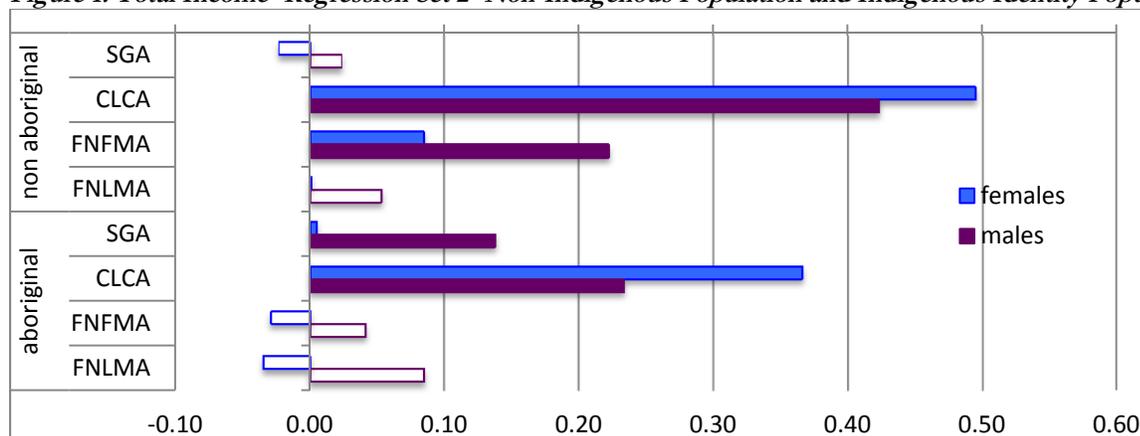
Turning to the effect of CLCAs on total incomes, we find substantial benefits across all groups. We find however, the effect is larger for non-Indigenous persons as compared to Indigenous persons. Non-Indigenous women who live in an Indigenous community that attains a CLCA, see an income increase of 49 percent, compared to 36 percent for Indigenous identity women, and non-Indigenous males see increase of 42 percent compared to Indigenous identity males who see an income increase of 23 percent.

Table 2: Summary of Findings for Total Income

Regression Set	Gender	SGA	CLCA	FNFMA	FNLMA
Regression Set 1					
Total Population	Male	11% increase	26% increase	10% increase	7% increase
	Female	-	38% increase	-	-
Regression Set 2					
Non-Indigenous	Male	-	42% increase	22% increase	-
	Female	-	49% increase	8% increase	-
Indigenous Identity	Male	13% increase	23% increase	-	-
	Female	-	36% increase	-	-
Regression Set 3					
Unregistered Indigenous	Male	41% increase	20% increase	-	-
	Female	-	35% increase	-	-
Registered Indigenous	Male	-	39% increase	-	-
	Female	-	44% increase	-	-

- equals no significant effects

Figure 1: Total Income- Regression Set 2- Non-Indigenous Population and Indigenous Identity Population¹⁵



4.2 Income from Wages and Salaries

Attaining an SGA – does not significantly affect the wages and salaries of Indigenous identity and non-Indigenous residents but has a six percent increase overall for men

Attaining a CLCA – increases the earning of Indigenous and non-Indigenous residents – in particular the female population

Nine percent/23 percent increase in total income for male/female population

22 percent/37 percent increase in total income for male/female non-Indigenous population

Six percent/21 percent increase in total income for male/female Indigenous identity population

21 percent/26 percent increase in total income for female unregistered/registered Indigenous population

No measureable effect for unregistered and registered Indigenous male population

Attaining a FNFMA / FNLMA –

FNFMA generally decreases wages and salaries of Indigenous and non-Indigenous males with no measureable effects on women

FNLMA 15 percent decrease in wages and salaries for non-Indigenous males with no measurable effects on other residents

Earnings are defined as wages and salaries and are primarily concerned with money earned from working for someone else. Results from Table 3 Regression Set 1 suggest that living in a Census subdivision with an SGA neither increases nor decreases earnings from wages and salaries for women, but there is a six percent increase overall for men. Living in a Census subdivision with a CLCA increases wages by 23 percent for women and nine percent for men. FNFMA's lower wages for men by 11 percent.

¹⁵Note: Bars filled in if p-value is less than 0.05. Age, schooling, marital status, official language knowledge, household size, year and Census subdivision included. Comparison group is residents of Census subdivisions without agreement or arrangement.

Regression sets 2 and 3 assess heterogeneous treatment effects across Indigenous groups for these different agreement types. Considering first SGAs, the estimates for women and men are very noisy, so that it is difficult to distinguish any statistically significant pattern. CLCAs raise incomes from wages and salaries for all people, but more for non-Indigenous persons than for Indigenous persons. Women benefit more than men in each group.

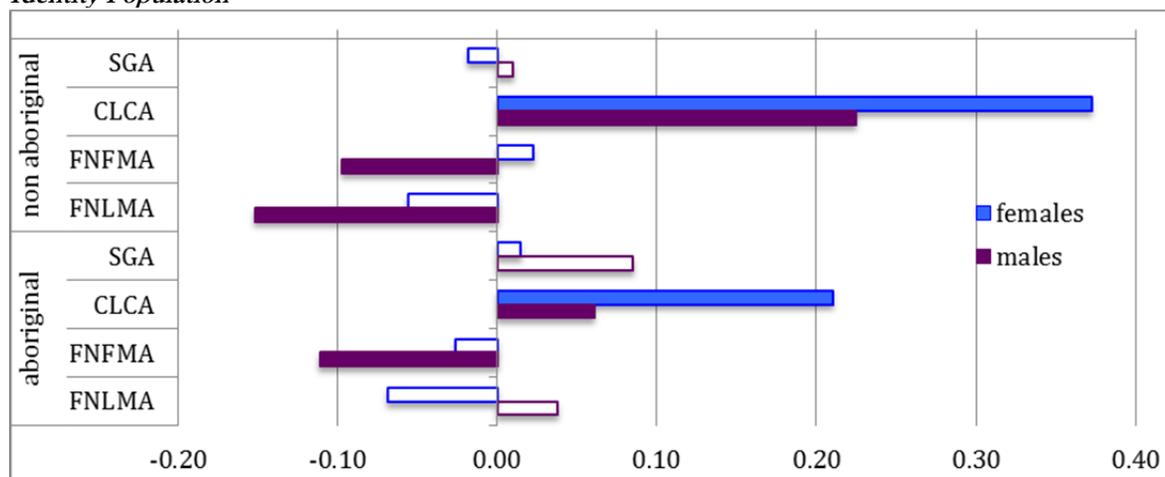
FNFMA and FNLMA are associated with lower earnings from wages and salaries. We see in Regression Set 2 that both FNFMA and FNLMA reduce non-Indigenous men's earnings from wages and salaries by 10 percent and 15 percent respectively. Indigenous identity male income from wages and salaries is reduced 11 percent under FNFMA.

Table 3: Summary of Findings for Income from Wages and Salaries

Regression Set	Gender	SGA	CLCA	FNFMA	FNLMA
Regression Set 1					
Total Population	Male	6% increase	9% increase	11% decrease	-
	Female	-	23% increase	-	-
Regression Set 2					
Non Indigenous	Male	-	22% increase	10% decrease	15% decrease
	Female	-	37% increase	-	-
Indigenous Identity	Male	-	6% increase	11% decrease	-
	Female	-	21% increase	-	-
Regression Set 3					
Unregistered Indigenous	Male	-	-	-	-
	Female	-	21% increase	-	-
Registered Indigenous	Male	-	-	-	-
	Female	-	26% increase	-	-

- equals no significant effects

Figure 2: Income from Wages and Salaries- Regression Set 2- Non-Indigenous Population and Indigenous Identity Population¹⁶



4.3 Labour Force Attachment

Attaining an SGA

Decrease in attachment for the non-Indigenous population
 Small positive impacts on labour force attachment for Indigenous people

Attaining a CLCA

Increases in the probability of working full time full year for non-Indigenous men and women (seven percent and six percent respectively)
 No significant impact on the Indigenous identity population

Attaining a FNFMA / FNLMA –

Non-Indigenous population is effected in a negative way with minimal impact on the Indigenous population

In our analysis, labour force attachment is being measured by looking at if an individual worked more than 25 weeks per year as well as worked full time full year. Results from Table 4, Regression Set 1 show that none of the agreement types have substantial effects, when we ignore the possibility of heterogeneous treatment effects. These agreement types reduce the fraction of people working more than 25 weeks by one to three percentage points, and reduce the fraction of people working full-time full-year by one to three percentage points.

However, big differences emerge when we consider heterogeneous treatment effects. Because coefficients from Regression Set 3 have large standard errors relative to the coefficient estimates, and therefore many insignificant parameter estimates, it is more instructive to consider Regression Set 2. Here, we allow treatment effects to vary between non-Indigenous persons and Indigenous

¹⁶Note: Bars filled in if p-value is less than 0.05. Age, schooling, marital status, official language knowledge, household size, year and Census subdivision included. Comparison group is residents of Census subdivisions without agreement or arrangement.

persons (and ignore possible variation between registered and unregistered Indigenous persons). We see that SGAs reduce the labour force attachment of non-Indigenous persons and increase (slightly) the labour force attachment of Indigenous persons. For example, the proportion of non-Indigenous men working more than 25 weeks drops by six percentage points, but that of Indigenous men rises by three percentage points (this increase is marginally statistically significant). We see a similar pattern for women. We also observe that the negative impacts of FNFMA and FNLMA on labour force attachment are driven in large measure by reductions in the labour force attachment of non-Indigenous workers, not of Indigenous workers. (This is seen in the positive and significant coefficients on Indigenous interactions with these arrangements.)

CLCAs show a different pattern. Here, we see that non-Indigenous workers gain substantially in labour force attachment, but Indigenous workers do not. For example, the proportion of non-Indigenous women and men in full-time full-year work increases by six and seven percentage points, respectively, when their community attains a CLCA. But, the full-time full-year probabilities of Indigenous people don't change in response to the attainment of a CLCA.

Table 4: Summary Table of Findings for Worked more than 25 Weeks

Regression Set	Gender	SGA	CLCA	FNFMA	FNLMA
Regression Set 1					
Total Population	Male	-	-	-	2% decrease
	Female	-	-	3% decrease	-
Regression Set 2					
Non Indigenous	Male	6% decrease	4% increase	-	4% decrease
	Female	-	-	7% decrease	-
Indigenous Identity	Male	3% increase	-	-	-
	Female	-	-	-	-
Regression Set 3					
Unregistered Indigenous	Male	-	-	-	-
	Female	7% increase	-	-	-
Registered Indigenous	Male	-	-	-	-
	Female	-	-	-	-

- equals no significant effects

Figure 3: Worked More Than 25 Weeks- Regression Set 2- Non-Indigenous Population and Indigenous Identity Population¹⁷

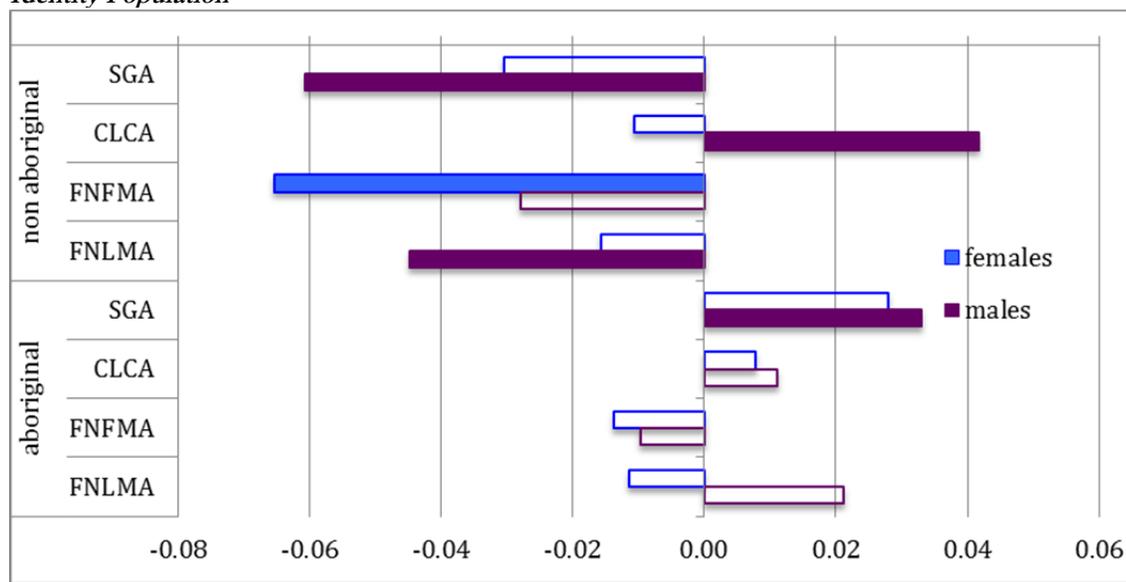


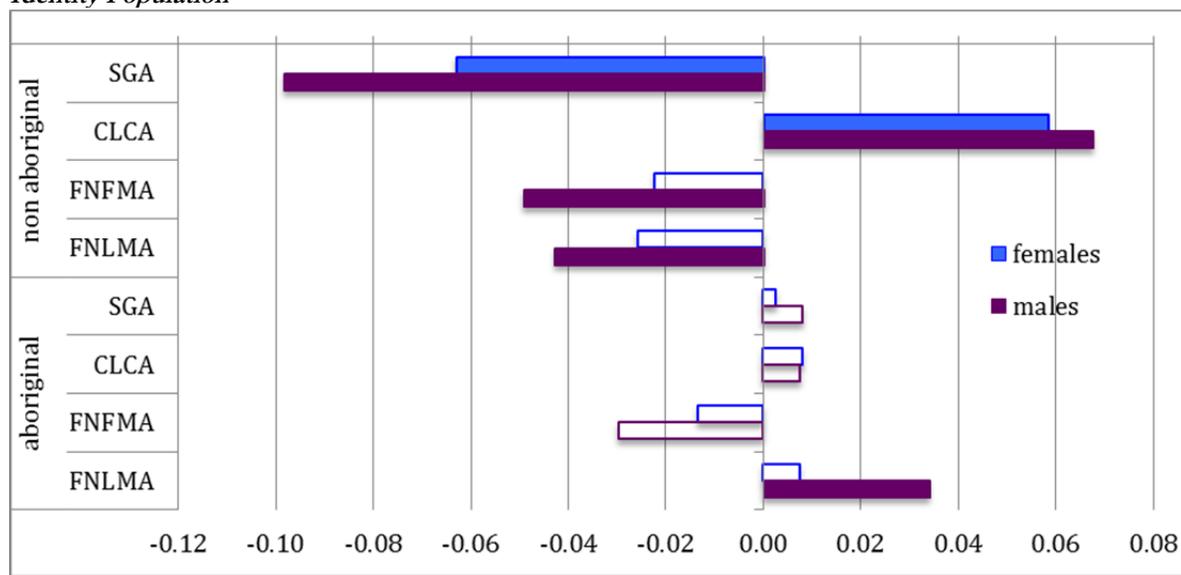
Table 5: Summary Table of Findings Working Full Time Full Year

Regression Set	Gender	SGA	CLCA	FNFMA	FNLMA
Regression Set 1					
Total Population	Male	2% decrease	-	3% decrease	-
	Female	-	-	-	-
Regression Set 2					
Non Indigenous	Male	10% decrease	7% increase	5% decrease	4% decrease
	Female	6% decrease	6% increase	-	-
Indigenous Identity	Male	-	-	-	3% increase
	Female	-	-	-	-
Regression Set 3					
Unregistered Indigenous	Male	-	-	-	-
	Female	-	-	-	-
Registered Indigenous	Male	-	-	-	-
	Female	-	-	-	-

- equals no significant effects

¹⁷Note: Bars filled in if p-value is less than 0.05. Age, schooling, marital status, official language knowledge, household size, year and Census subdivision included. Comparison group is residents of Census subdivisions without agreement or arrangement.

Figure 4: Working Full Time Full Year- Regression Set 2- Non-Indigenous Population and Indigenous Identity Population¹⁸



4.4 Household Income

Attaining an SGA

Decreases the household income of non-Indigenous population by eight percent for men and 15 percent for women

Increases the household total incomes of unregistered Indigenous women and men by 27 percent

Attaining a CLCA – increases the earning of Indigenous and non-Indigenous residents

30 percent/28 percent increase in household income for male/female population

42 percent/36 percent increase in household income for male/female non-Indigenous population

28 percent/27 percent increase in household income for male/female Indigenous identity population

23 percent/24 percent increase in household income for male/female unregistered Indigenous population

47 percent/39 percent increase in household income for male/female registered Indigenous population

Attaining a FNFMA / FNLMA –

FNFMA increases household incomes for non-Indigenous males and females – eight percent and 10 percent with no measureable effects on other residents

FNLMA nine percent decrease in household income for non-Indigenous males with no measurable effects on other residents

¹⁸Note: Bars filled in if p-value is less than 0.05. Age, schooling, marital status, official language knowledge, household size, year and Census subdivision included. Comparison group is residents of Census subdivisions without agreement or arrangement.

Turning now to household income effects, Table 6, Regression Set 1, we see that living in a Census subdivision with a CLCA has substantial effect on household incomes. The household incomes of women and men rise on average by 28 percent and 30 percent, respectively. In contrast, household incomes do not increase at all for the other agreement types, and decrease in the case of FNLMA.

Household income effects are estimated precisely enough that we can consider heterogeneous effects across non-Indigenous persons and Indigenous persons, and across registered and unregistered Indigenous persons. Although the average effect of SGAs on incomes is about zero, we see negative effects for non-Indigenous persons and positive effects for Indigenous persons. Looking at Regression sets 2 and 3, living in a Census subdivision with an SGA decreases household incomes for non-Indigenous women by 15 percent, and eight percent for non-Indigenous men. In contrast, SGAs have no statistically significant effect on the household incomes of registered Indigenous women and men, and increase household incomes of unregistered Indigenous women and men by 27 percent.

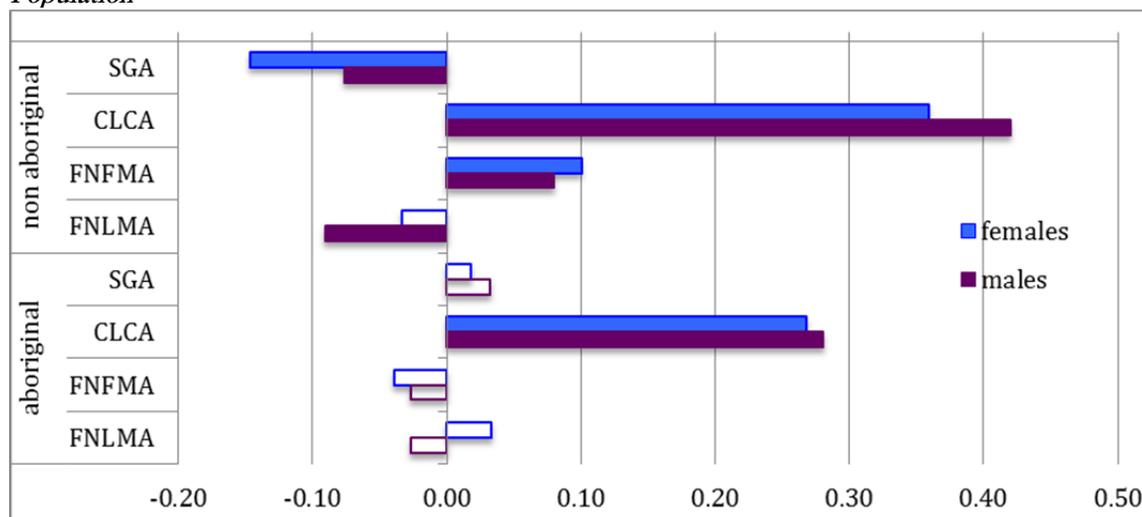
For non-Indigenous persons, CLCAs raise household incomes by 36 percent and 42 percent, respectively, for women and men and by a similar magnitude for registered Indigenous women and men. However, for Indigenous identity women and men, CLCAs raise incomes by 27 percent and 28 percent. Thus, both non-Indigenous persons and Indigenous persons benefit in terms of household incomes, but non-Indigenous persons benefit more.

Table 6: Summary of Findings for Household Incomes

Regression Set	Gender	SGA	CLCA	FNFMA	FNLMA
Regression Set 1					
Total Population	Male	-	30% increase	-	6% decrease
	Female	-	28% increase	-	-
Regression Set 2					
Non Indigenous	Male	8% decrease	42% increase	8% increase	9% decrease
	Female	15% decrease	36% increase	10% increase	-
Indigenous Identity	Male	-	28% increase	-	-
	Female	-	27% increase	-	-
Regression Set 3					
Unregistered Indigenous	Male	27% increase	23% increase	-	-
	Female	27% increase	24% increase	-	-
Registered Indigenous	Male	-	47% increase	-	-
	Female	-	39% increase	-	-

- equals no significant effects

Figure 5: Household Income- Regression Set 2- Non-Indigenous Population and Indigenous Identity Population¹⁹



4.5 Household Income from Government Transfers:

Attaining an SGA

Reduces government transfers to Indigenous identity women by nine percent
 Increases government transfers to unregistered Indigenous males by 28 percent
 No effect on the non-Indigenous population

Attaining a CLCA – increases the government transfers of Indigenous and non-Indigenous residents

59 percent/57 percent increase in government transfers for male/female population
 49 percent/47 percent increase in government transfers for male/female non-Indigenous population
 60 percent/57 percent increase in government transfers for male/female Indigenous identity population
 59 percent/56 percent increase in government transfers for male/female unregistered Indigenous population
 62 percent/63 percent increase in government transfers for male/female registered Indigenous population

Attaining a FNFMA / FNLMA

Increase government transfer to non-Indigenous men – FNFMA 15 percent, FNLMA 21 percent
 No measurable effects on the Indigenous population

Results from Table 7 consider household income from government transfer income. Government transfers refer to total income from all transfer payments received from federal, provincial, territorial or municipal governments.

¹⁹Note: Bars filled in if p-value is less than 0.05. Age, schooling, marital status, official language knowledge, household size, year and Census subdivision included. Comparison group is residents of Census subdivisions without agreement or arrangement.

SGAs appear to reduce government transfer income by nine percent for Indigenous identity women, but do not affect transfers for non-Indigenous men and women. Government transfers for unregistered Indigenous men increase by 28 percent after attaining an SGA.

CLCAs, in contrast, increase government transfer income by a very large magnitude. For non-Indigenous women and men, CLCAs raise household government transfer income by about 47 percent and 49 percent respectively. For registered Indigenous women and men, this effect is even larger, with increases of about 63 percent and 62 percent respectively.

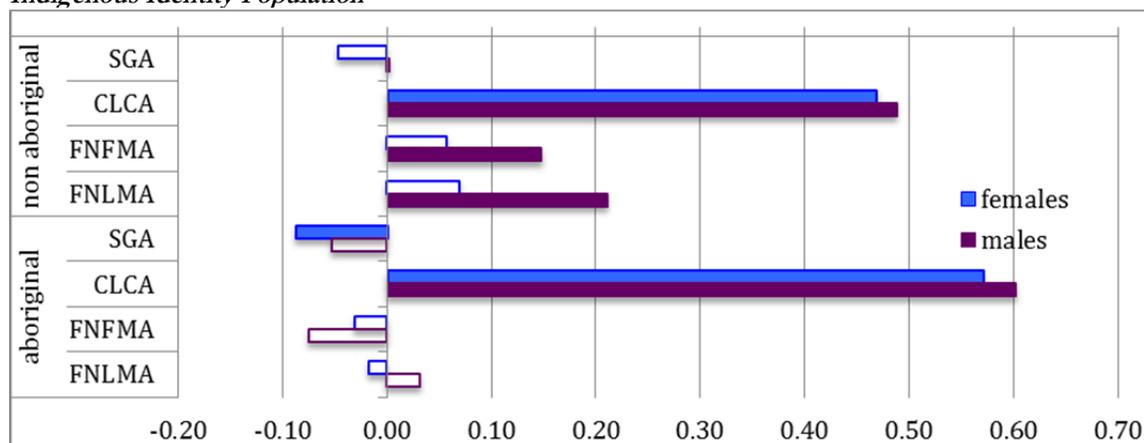
Opt-in arrangements do not appear to have an impact on government transfers for Indigenous persons, but increase transfers for non-Indigenous men.

Table 7: Summary of Findings for Household Income from Government Transfers

Regression Set	Gender	SGA	CLCA	FNFMA	FNLMA
Regression Set 1					
Total Population	Male	-	59% increase	-	12% increase
	Female	7% decrease	57% increase	-	-
Regression Set 2					
Non Indigenous	Male	-	49% increase	15% increase	21% increase
	Female	-	47% increase	-	-
Indigenous Identity	Male	-	60% increase	-	-
	Female	9% decrease	57% increase	-	-
Regression Set 3					
Unregistered Indigenous	Male	28% increase	59% increase	-	-
	Female	-	56% increase	-	-
Registered Indigenous	Male	-	62% increase	-	-
	Female	-	63% increase	-	-

- equals no significant effects

Figure 6: Household Income from Government Transfers- Regression Set 2- Non-Indigenous Population and Indigenous Identity Population²⁰



4.6 Crowding

Attaining an SGA

Do not affect the crowding of non-Indigenous persons, but reduce crowding for Indigenous people

Attaining a CLCA

Reduce crowding for non-Indigenous people more than for Indigenous people

Attaining a FNFMA / FNLMA –

Increase crowding for non-Indigenous population and decrease crowding for Indigenous identity population

Results from Table 8 consider crowding. Crowding occurs when there is more than one person per room in a private dwelling. Results showing a decrease indicate reduced household crowding.

The effects on crowding are small, but statistically significant. Here, we see that attainment of an SGA reduces crowding by three percent for Indigenous men and five percent for Indigenous women, but does not affect crowding for the non-Indigenous population. CLCAs, on the other hand reduce crowding for Indigenous and non-Indigenous groups. The impact of opt-in arrangements varies by type with FNFMA's being associated with a small reduction in crowding for Indigenous person and increased crowding for non-Indigenous population. FNLMA's do not have a significant impact on crowding for Indigenous persons, but increase crowding a little for the non-Indigenous population.

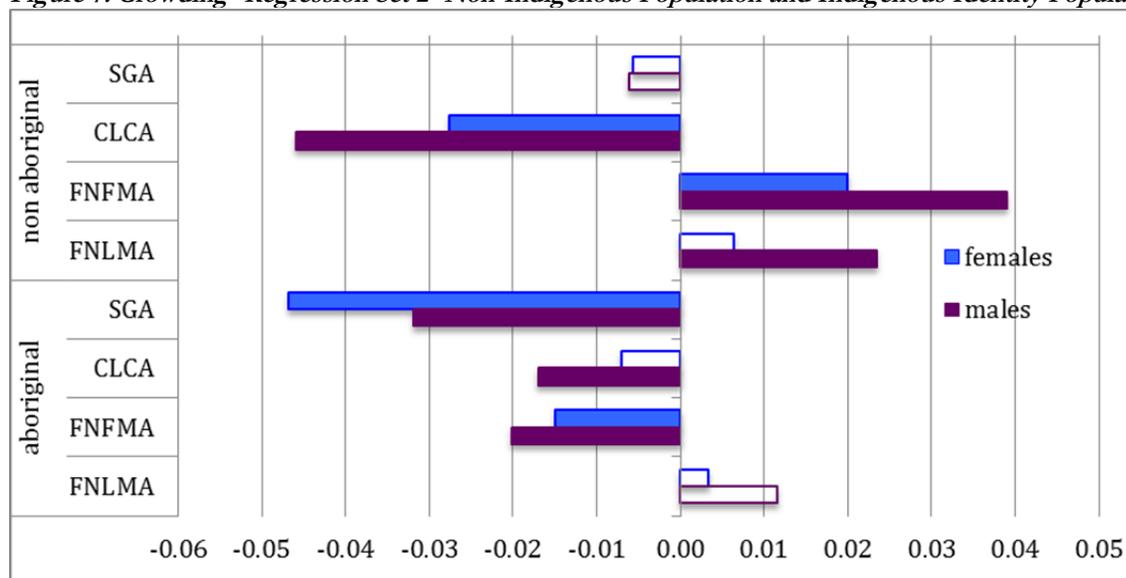
²⁰Note: Bars filled in if p-value is less than 0.05. Age, schooling, marital status, official language knowledge, household size, year and Census subdivision included. Comparison group is residents of Census subdivisions without agreement or arrangement.

Table 8: Summary of Findings for Income from Crowding

Regression Set	Gender	SGA	CLCA	FNFMA	FNLMA
Regression Set 1					
Total Population	Male	3% decrease	2% decrease	-	2% increase
	Female	4% decrease	-	-	1% increase
Regression Set 2					
Non Indigenous	Male	-	5% decrease	4% increase	2% increase
	Female	-	3% decrease	2% increase	-
Indigenous Identity	Male	3% decrease	2% decrease	2% decrease	-
	Female	5% decrease	-	2% decrease	-
Regression Set 3					
Unregistered Indigenous	Male	7% decrease	-	-	-
	Female	8% decrease	-	-	-
Registered Indigenous	Male	-	-	-	-
	Female	4% decrease	-	-	-

- equals no significant effects

Figure 7: Crowding- Regression Set 2- Non-Indigenous Population and Indigenous Identity Population²¹



²¹Note: Bars filled in if p-value is less than 0.05. Age, schooling, marital status, official language knowledge, household size, year and Census subdivision included. Comparison group is residents of Census subdivisions without agreement or arrangement.

4.7 Community level Impacts

4.7.1 Results from regressions on Community Well-being scores

A community analysis at the level of the Census subdivision was also undertaken. This involved aggregating the characteristics of individuals living in Indigenous Census subdivisions and running a series of regressions controlling for Census subdivision as well as the type of agreement or opt-in legislation.

In these analyses, the Community Well-being methodology is used to define outcomes. According to INAC,

The Community Well-Being Index is a means of examining the well-being of individual Canadian communities. Various indicators of socio-economic well-being, including education, labour force activity, income and housing, were derived from Statistics Canada's Census of Population and combined to give each community a well-being "score". These scores are used to compare well-being across First Nations and Inuit communities with well-being in other Canadian communities over time.²²

Having an SGA

Increases the Community Well-being total score by about 4 points for Indigenous residents and five points for all residents

Increases Community Well-being scores for housing, income and labour force activity

Having a CLCA

Increases the Community Well-being total score by about 3 points for Indigenous residents

Improves Community Well-being scores for income

Having a FNLMA

Decreases the Community Well-being score by about 2 points for Indigenous residents – decreases labour force activity

Looking at Table 9 and the regression with only Indigenous residents, we see that having a SGA has a statistically significant impact of about 0.05 for the Community Well-being total, as well as increases the housing component, the income component and the labour force components, as compared to Census subdivisions without any agreement or opt-in legislation. Keeping in mind that these differences are present after controlling for year and Census subdivision effects, it appears that there is a real benefit to having an SGA. Having a CLCA increases the income score by 0.07 points but does not have a substantive impact on the other measures. Having an FNLMA or FNFMA generally does not have a statistically significant impact on Community Well-being scores. However, communities with a FNLMA have lower labour force component scores as compared to communities without any agreement (-0.04) and lower Community Well-being scores for Indigenous residents.

²² <https://www.aadnc-aandc.gc.ca/eng/1100100016579/1100100016580>

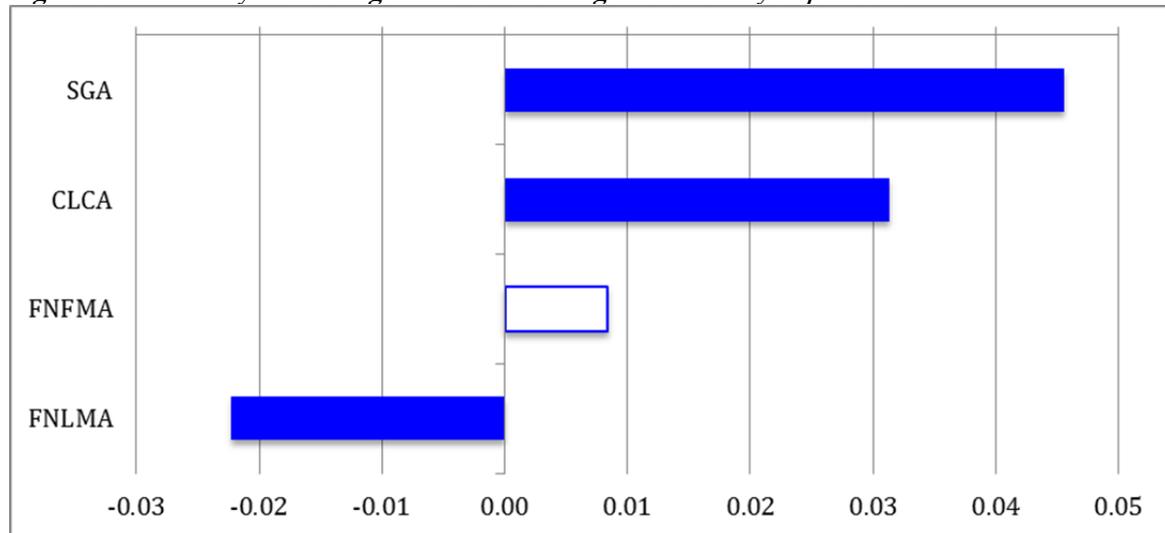
Looking at the results for all residents, we can see that attaining a SGA has a positive impact on the total Community Well-being score as well as on the housing, income and labour force subcomponents of between .04 and .05 points. Attaining a CLCA has a substantial impact on the income subcomponent of .06 points, however, the impacts on other components are quite small. For other agreement types (FNLMA and FNFMA), the impact is not statistically significant on any of the Community Well-being measures.

Table 9: Summary of Findings for Regressions Assessing Community Well-Being Scores

Population Group	SGA	CLCA	FNFMA	FNLMA
Community Well-being - Total				
All Residents	.04	-	-	-
Indigenous Residents	.05	.03	-	-.02
Community Well-being - Education				
All Residents	-	-	-	-
Indigenous Residents	-	-	-	-
Community Well-being - Housing				
All Residents	.04	-	-	-
Indigenous Residents	.05	-	-	-
Community Well-being - Income				
All Residents	.04	.06	-	-
Indigenous Residents	.05	.07	-	-
Community Well-being – Labour Force Activity				
All Residents	.05	-	-	-
Indigenous Residents	.06	-	-	-.04

- equals no significant effects

Figure 8: Community Well-Being Index- Total- Indigenous Identity Population



4.7.2 Results of Community Well-being Scores by Agreement

The following section details Community Well-being scores for 15 SGA in 1991, 1996, 2001, 2006 and 2011. In each case, the score is provided for the total population and the population that is Indigenous by identity. The following tables provides details by agreement for total scores (Table 10) and component Community Well-being Scores – Education (Table 11), Housing (Table 12), Income (Table 13) and Labour Force Activity (Table 14).

As can be seen, there was only one SGA in force in 1991. The score for the Sechelt total population was 60 and the score for the Indigenous identity population in the Sechelt agreement was 57. This difference between the total population, which generally includes non-Indigenous identity residents, and the Indigenous identity population is consistent across almost all agreements, but the differential varies across agreements. As a point of comparison, the average Community Well-being score for non-Indigenous communities in 2011 was 79 and for First Nations communities it was 59.²³

Looking at the Community Well-being scores for individual agreements we see a lot of variance. Communities that saw substantive improvements in their scores over the census periods include Sechelt, Champagne and Aishihik, Nacho Nyak Dun, and Vuntut Gwitch'in as well as communities under the Mi'kmaw Kina'Matnewey education agreement. All these communities saw increases in their scores by at least 5 points. The score for the Indigenous identity population covered by the Champagne and Aishihik Agreement increased by 13 points from 1996 to 2011 (63 in 1996 and 76 in 2011). Scores for Vuntut Gwitch'in increased by 11 points for the Indigenous identity population (60 in 1996 and 71 in 2011). The score for the Indigenous identity population in the Nacho Nyak Dun agreement increased by seven points over the same period (63 in 1996 and 70 in 2011).

At the opposite end of the spectrum, the Community Well-being score for the Indigenous identity population covered by the Selkirk agreement fell by 9 points (from 68 in 2001 to 59 in 2011). Scores for the remaining eight agreements whose life spanned more than one census period changed by 3 points or less.

The Tsawwassen Agreement came into effect in 2009. In 2011, the Community Well-being score for the total population was 81, but the score for the Indigenous Identity population was 72.

Overall, it is worth noting that the scores for SGA were almost always higher than the average score for First Nations communities in Canada. In 2006, the scores for the total populations ranged from 55 to 83 with only two SGAs having a lower score than the average for all First Nations (57). Community Well-being scores for SGAs however remain below the non-Indigenous population scores.²⁴

²³ <http://www.aadnc-aandc.gc.ca/eng/1345816651029/1345816742083#chp1>

²⁴ Total Community Well-being Scores Non-Aboriginal Population/ First Nation Population: 1991 71/51; 1996 72/55; 2001 73/57; 2006 77/57; 2011 79/59. Source: AANDC *The Community Well-Being Index: Report on Trends in First Nations Communities, 1981-2011*

The following tables provide details by agreement for component Community Well-being Scores – total, education, income, labour, and housing.

Table 10: Total Community Well-being Scores
CWB Total Score for Selected Self-Government Agreements

Agreement	1991		1996		2001		2006		2011	
	All	Aboriginal only								
Labrador Inuit							62	59	64	61
Mi'kmaw Kina'Matnewey					53	52	55	55	59	58
Tsawwassen									81	72
Sechelt	60	57	65	62	58	57	66	60	69	63
Westbank							74	69	75	68
Nisga'a					62	61	63	61	61	59
Teslin Tlingit			71	63	65	63	70	68	65	61
Carcross Tagish							69	64	73	67
Ta'an Kwach'an							83	66	66	65
Champagne and Aishihik			73	63	76	70	77	70	81	76
Nacho Nyak Dun			69	63	70	66	77	73	72	70
Kluane							75	75	75	73
Selkirk					71	68	68	64	62	59
Vuntut Gwich'in			62	60	69	65	69	64	74	71
Tlicho							56	53	60	56

Table 11: Community Well-being Scores for Education
CWB Score: Education Component

Agreement	1991		1996		2001		2006		2011	
	All	Aboriginal only								
Labrador Inuit							42	38	40	37
Mi'kmaw Kina'Matnewey					46	46	46	46	50	51
Tsawwassen									66	50
Sechelt	34	37	43	45	37	36	48	39	49	39
Westbank							52	51	58	46
Nisga'a					48	47	49	48	48	46
Teslin Tlingit			53	41	40	38	42	40	36	34
Carcross Tagish							49	42	54	43
Ta'an Kwach'an							57	27	22	20
Champagne and Aishihik			51	43	55	45	56	45	59	52
Nacho Nyak Dun			50	42	47	44	47	37	48	45
Kluane							53	52	58	59
Selkirk					59	56	41	34	33	29
Vuntut Gwich'in			48	45	48	41	38	30	48	44
Tlicho							30	25	33	28

Table 12: Community Well-being Scores for Housing
CWB Score: Housing Component

Agreement	1991		1996		2001		2006		2011	
	All	Ab Aboriginal only o	All	Aboriginal only	All	Aboriginal only	All	Aboriginal only	All	Aboriginal only
Labrador Inuit					72	72	78	77	77	76
Mi'kmaw							77	77	77	77
Kina'Matnewey										
Tsawwassen									94	92
Sechelt	79	74	86	86	87	80	81	79	89	89
Westbank							93	78	95	93
Nisga'a					77	77	73	73	70	69
Teslin Tlingit			76	79	79	79	81	80	81	79
Carcross Tagish							84	82	82	78
Ta'an Kwach'an							86	83	88	88
Champagne and Aishihik			88	79	90	90	87	82	87	83
Nacho Nyak Dun			78	74	80	77	92	92	82	80
Kluane							80	81	85	84
Selkirk					81	80	78	77	74	73
Vuntut Gwich'in			71	71	77	76	80	79	81	80
Tlicho							65	64	65	63

Table 13: Community Well-being Scores for Income
CWB Score: Income Component

Agreement	1991		1996		2001		2006		2011	
	All	Aboriginal only								
Labrador Inuit							71	66	77	73
Mi'kmaw					42	41	46	46	54	53
Kina'Matnewey										
Tsawwassen									99	77
Sechelt	60	49	57	51	59	51	66	57	76	66
Westbank							79	67	84	71
Nisga'a					58	56	63	60	69	67
Teslin Tlingit			74	62	71	69	81	79	83	78
Carcross Tagish							80	72	92	83
Ta'an Kwach'an							98	82	89	87
Champagne and Aishihik			71	57	75	69	84	78	95	90
Nacho Nyak Dun			70	62	74	68	89	85	89	79
Kluane							86	87	87	86
Selkirk					67	61	79	72	80	77
Vuntut Gwich'in			60	57	71	67	82	76	90	86
Tlicho							71	67	82	77

Table 14: Community Well-being Scores for Labour Force Activity
CWB Score: Labour Component

Agreement	1991		1996		2001		2006		2011	
	All	Aboriginal only								
Labrador Inuit							57	54	61	58
Mi'kmaw					51	50	52	51	52	52
Kina'Matnewey										
Tsawwassen									67	69
Sechelt	66	66	73	67	49	61	69	67	61	57
Westbank							74	78	64	63
Nisga'a					65	64	66	65	56	55
Teslin Tlingit			81	71	69	68	75	74	59	52
Carcross Tagish							65	62	63	65
Ta'an Kwach'an							90	72	66	64
Champagne and Aishihik			81	72	83	75	80	74	82	79
Nacho Nyak Dun			79	73	80	73	82	79	71	75
Kluane							80	81	70	63
Selkirk					77	75	75	73	59	56
Vuntut Gwich'in			71	68	81	78	75	70	78	76
Tlicho							60	57	60	57

4.8 Summary of Socio-Economic Impacts

Overall, there are positive effects on incomes from SGAs and CLCAs, and smaller effects on incomes from FNLMA and FNFMA. The individual total incomes of women are unaffected by SGAs, FNLMA and FNFMA. But, the individual total incomes of women are 38 percent higher if their community attains a CLCA. The individual incomes of men are 11 percent higher if their community attains a SGA, and 26 percent higher if their community attains a CLCA. The individual incomes of men are 10 percent and seven percent higher, respectively, if their community attains an FNLMA or FNFMA.

Results find that SGAs raise incomes more for Indigenous people than for non-Indigenous people but CLCAs raise incomes more for non-Indigenous people as compared to Indigenous people.

For household income, a similar story emerges. CLCAs raise household incomes the most, but more for non-Indigenous and registered Indigenous people as compared to unregistered Indigenous residents. SGAs lower incomes for non-Indigenous people and raise them for Indigenous people. FNFMA and FNLMA are a mixed bag, and their coefficients are estimated less precisely.

Although total individual and household incomes go up, not all sources of income rise. SGAs do not have a large effect on earnings from wages and salaries, but CLCAs increase earnings from wages and salaries by 23 percent for women and nine percent for men. In contrast, FNFMA and FNLMA may *decrease* earnings from wages and salaries. Labour force attachment (from which earnings are generated) follows similar patterns.

Government transfer income also responds. CLCAs, increase government transfer income by a very large magnitude. For non-Indigenous women and men, CLCAs raise household government transfer income by about 47 percent and 49 percent, respectively. For Indigenous women and men, this effect is even larger, with increases in the neighbourhood of 60 percent. SGAs do not have a significant impact on government transfers.

There are some responses in our crowding measures. SGAs do not affect the crowding of non-Indigenous persons, but reduce crowding for Indigenous people. In contrast, CLCAs reduce crowding for non-Indigenous people more than for Indigenous people. FNLMA and FNFMA increase crowding for non-Indigenous persons and reduce crowding for Indigenous persons.

The Community Well-being and all of its component indices rise when a community attains an SGA or a CLCA. But we find little or no response in these measures as a result of attaining an FNLMA or FNFMA. Overall, we find that community-level outcomes increase similarly for Indigenous members of Indigenous communities and non-Indigenous members of Indigenous communities in response to the attainment of SGAs and CLCAs.

In summary, of the four agreement types, attainment of SGAs and CLCAs are most strongly correlated with improved outcomes for Indigenous people. Attainment of SGAs increases Indigenous household total incomes by increasing individual labour force activity and earnings of both women and men; in contrast, attainment of CLCAs increases household total incomes in large measure by increasing household government transfer income.

Recommendation 1:

It is recommended that INAC continue to support research that assesses the socioeconomic impacts of self-government agreements.

5. Evaluation Findings – Governance and Programs and Services

Immediate and intermediate outcomes of self-government agreements are defined as:

- *Governance*: Current relationships supported and new relationships established which will result in stable and sustainable Indigenous governments.
- *Programs and Services*: Program and service responsibilities established which will result in control and jurisdiction over programs and services.

There is limited ongoing performance data related to many aspects of the logic model, including baseline data to use to compare with current measures of progress and quantitative and qualitative data to support immediate and intermediate level results related to governance and program and services. This includes ongoing performance measurement within Indigenous governments.

Recommendation 2:

It is recommended that INAC work with Indigenous governments in the development of performance measurement strategies that measure progress related to their self-government agreements.²⁵

5.1 Governance

Self-governing Indigenous communities view self-government agreements positively. They express a renewed sense of pride in their governments, particularly in relation to the right to elect their own governments, independent decision-making capacity, and being accountable to their own citizens.

Under the terms of self-government agreements, there is evidence that structures are in place to support relationship and accountability requirements. These include financial accountability mechanisms (e.g., financial administration acts, annual reporting through audited financial statements) and transparency mechanisms (e.g., internal constitutions, registry of laws). In addition, there is evidence that structures are in place to support inter-jurisdictional partnerships and arrangements, which include a wide variety of program and service arrangements.

By giving greater clarity to an Indigenous group's rights to self-government powers, the Indigenous group is more empowered to govern itself and respond to and improve its own socio-economic conditions and interests through more accountable government. When looked at from this broader perspective, many communities are fully engaged in determining the nature and shape of their governing institutions, including the quality of their relationships with surrounding community and fostering the improvement in the quality of life for their members. This is supported through evidence that self-government agreements have enabled the emergence of a set of institutions that are creating an increased sense of control and stewardship and are fostering an increased sense of

²⁵ This may include supporting performance measurement activities during the negotiation stage – such an expanded Treaty-Related Measures Initiative in British Columbia to include the support for performance measurement development and implementation.

empowerment. Moreover, many Indigenous governments are being created that embody traditional political practices. As in the context of the Yukon,

...the self-government agreements create the potential for broadly empowered First Nation governments. The realization of this potential is subject to negotiation. This process makes the acquisition of self-government powers by Yukon First Nations contingent on approval by the federal and territorial governments, an arrangement clearly at odds with the First Nations' insistence on inherence-based self-government. However, the federal government's policy on inherence also requires implementation negotiations on such fundamental questions as the range of powers of First Nations governments, mechanisms to ensure their accountability to their members, and financial relations between them and the federal government... This suggests that the Yukon process is relevant as a basis for anticipating the unfolding of negotiations aimed at creating inherence-based First Nations governments.²⁶

There are, however, challenges associated with establishing governance. Two key challenges identified in the evaluation include:

- *Capacity and Support* - Self-government has resulted in an increased number of community members employed by the Indigenous governments, however, a lack of administrative capacity and support to effectively manage all of the new responsibilities under the agreement remains a critical issue for many communities.²⁷
- *Intergovernmental Relationships* - Self-government agreements establish a framework for intergovernmental relationships between the Indigenous, federal and provincial/territorial governments. There is a perception among Indigenous governments that other levels of government have not lived up to the spirit of the self-government agreement and that more collaboration to strengthen the approach to implementation of the agreements is required among agreement partners.

The following illustrates both the achievements and concerns related to governance under a self-government agreement.

²⁶ Dacks, G. (2004, Sept). "Implementing First Nations Self-Government in Yukon: Lessons for Canada." *Canadian Journal of Political Science* 37(3): p 676.

²⁷ This was also a key finding from AANDC, *Evaluation of the Federal Government's Implementation of Self-Government and Self-Government Agreements*, undertaken in 2011, which found that community capacity to implement a self-government agreement was among the most pressing issue cited by key informants with respect to the successful implement of self-government agreements.

Carcross / Tagish First Nation, Yukon Territory

The Carcross/Tagish First Nation is mandated to protect the environment, health, education and aboriginal rights of our people; to continue to preserve and protect our culture and traditions; to protect and develop our natural resources and strengthen our economy and the government of the Carcross/Tagish First Nation for our future generations.²⁸

Governance Approach

The Carcross/Tagish First Nation has six recognized clan families. Each clan has a leader who is chosen by their respective clan members to be their spokesperson on behalf of the clan both in the Carcross/Tagish First Nation governing structure and at meetings, ceremonial activities and other public events.

The Carcross/Tagish First Nation Executive Council includes nine members with one member chosen from each of six clans, two representatives appointed from the Elder Council, and one elected Khà Shâde Héni (Chief). There is a modern government administrative structure in place with an executive director and directors and staff in all key functional areas of government. Government departments include: Governance; Capacity Development; Finance and Infrastructure; Heritage, Lands and Natural Resources; and Health and Wellness.

Carcross/Tagish First Nation approach to governance is to support community members in a holistic manner. This includes providing free day care and home services to elders as well as providing programs and services to all citizens, regardless of Indigenous status. Not all members receive the same benefits however, as those living off settlement lands do not receive the same benefits as those living on settlement lands.²⁹

One of the common issues raised during interviews regarding governance in Carcross/Tagish First Nation was with respect to the lack of administrative capacity. Council members were nearly unanimous in their conclusion that Carcross/Tagish First Nation lacks the administrative capacity to effectively manage all of the new responsibilities. The insufficient capacity is related to the heavy volume of work across a wide range of policy and program areas, and the fact that the Government can only afford a small number of staff to manage the workload. In addition, much of the work in planning and managing a modern government is highly technical, particularly in areas such as land management, where territorial and municipal regulations and the complexities of land development require extensive knowledge and expertise. Difficulty hiring and retaining staff also contributes to the capacity shortfall.

Access to Government

Governance has also been challenged by difficulties in communicating with community members and member participation in the Carcross/Tagish First Nation government activities. Band council meetings have low turnout, meaning Carcross/Tagish First Nation members are often not informed of government activities. For example, out of the 200 Daklaweidi clan members, the largest clan in Carcross/Tagish First Nation, only 15 to 20 people attends clan meetings. Attendance is higher proportionally among some of the smaller clans, but the overall participation rate remains low. Carcross/Tagish First Nation also does not have a youth council, which has made it difficult to

²⁸ Carcross/Tagish First Nation Mission Statement

²⁹ Carcross/Tagish First Nation members living off settlement land can only receive the elder gift and request post-secondary funding.

engage the youth in the community

To ensure the Government is open and transparent all budgets, audits, legislation and community members are available to community members. The Government also issues quarterly newsletters. However, there is concern among community members that they do not have access to information about their government. Interviews revealed that low participation in community meetings may also be a product of some community members lacking trust in the government.

This lack of trust was demonstrated by conflict in the spring of 2015 over approaches taken by the Carcross/Tagish First Nation government, including the efforts of Carcross/Tagish First Nation to move people off social assistance in an effort to rebuild the health and self-sufficiency of their community and community members. This conflict resulted in government offices being barricaded.

Government Relationships

Carcross/Tagish First Nation has a good working relationship with other Yukon First Nations with common table meetings dedicated to education, capacity, lands, and health.

Self-government has improved the relationship between the Carcross/Tagish First Nation and the Yukon Territorial Government, including regular meetings and supporting the capacity to administrate lands and resource. The territorial government is viewed however as an impediment to the drawing down of programs and services.

Carcross/Tagish First Nation government officials believe the federal government has not lived up to the spirit of the self-government agreement by turning away from the community rather than become a real partner. The lack of partnership applies whenever the federal government simply refers Carcross/Tagish First Nation to the Yukon Territorial Government, rather than working directly to help find workable solutions. Overall, the Carcross/Tagish First Nation would like more support and a proactive partnership between Carcross/Tagish First Nation, Canada, and the Yukon Territorial Government.

5.2 Programs and Services

There is evidence that self-government agreements support the transfer of jurisdiction of program structures that allow for law making authority over program and services responsibilities. These include law making authority for social assistance, child and family services, and education. Agreements and side agreements also include structures for the funding and standards of program and services.

There is however some reluctance to assume jurisdiction over program and services due to a perceived lack of local capacity and inadequate financial resources, and a reluctance to assume responsibility for program and services areas that are viewed as being historically underfunded.

The agreements have structures in place that allow the federal and or provincial/territorial governments to continue to deliver programs and services, which Indigenous governments have not assumed responsibility. Education is the area noted most frequently where an Indigenous signatory group has been able to bring about improvements in curriculum, hiring of teachers with greater understanding of local culture, and financial support for tailored programming. Although many areas of jurisdiction have not been drawn down to date, having the ability to do so has improved working relations with provincial/territorial governments.

The following highlight key of challenges associated with the delivery of programs and services under self-government arrangements.

- *Funding levels* are based on existing program levels for status Indians. Often Indigenous governments pay for programs and services to their all their citizens, not just those with status.
- *Fiscal issues*, such as found in the Yukon as a result of Section 18, have disrupted the transition of programs and services from the Yukon Territorial Government to the self-governing Yukon First Nations.³⁰
- *Capacity* to develop and implement relevant programs and services to address the needs of community members.
- *Comparability* of basic public services for Indigenous peoples to those available to other Canadians in the vicinity.³¹
- *Economies of scale* to be able to delivery program and services in an effective and efficient manner.

The following illustrates both the achievements and concerns related to programs and services under a self-government agreement.

³⁰ Section 18 of the Yukon Self-Government Agreements state that financial contribution of the Yukon shall be subtracted from the expenditure base of any fiscal transfer arrangement in effect. This is essentially saying that Yukon Territorial Government should be no worse off than it was prior to the transfer of program and services in terms of its ability to delivery services to it residual client base. The Yukon Territorial Government and self-governing Yukon First Nations have looked to Canada for these incremental costs. This issue has not been resolved and has resulted in the inability of self-governing Yukon First Nations to be able to draw down territorial programs and services with funding attached.

³¹ As per the Inherent Right Policy, comparability does not mean that programs, services or funding must be identical in all cases.

Tsawwassen First Nation, British Columbia

Tsawwassen First Nation will be a successful and sustainable economy, and an ideal location to raise a family. As a community, we will feel safe on Tsawwassen Lands, we will be healthy, and we will have every opportunity to achieve our dreams. We will honour our culture and practice our language. Our Government will help us achieve our goals by communicating, being respectful, and taking full advantage of our Treaty powers.³²

Tsawwassen First Nation programs and services are benefitting from self-government because the government is now able to plan and allocate resources and develop alternative approaches according to what is needed, as opposed to being constrained by the rules of INAC funding streams under the *Indian Act* and by provincial rules and regulations. There have been challenges as the transition has taken place, including with respect to Treaty interpretation and awareness across federal department. At the provincial level, the relationship has, in Tsawwassen First Nation's view, improved, but there are challenges, in some instances where provincial regulations have treated Tsawwassen First Nation as any other municipality, rather than a community under a Treaty. However, these challenges are gradually being worked out through regulatory adaptations and administrative adjustments.

Tsawwassen First Nation views the funding provided through their Fiscal Financing Agreements as insufficient to meet their governing and program delivery needs. They argue that the Fiscal Financing Agreements is insufficient in that it does not take into account the full cost of self-governing. The Tsawwassen First Nation government noted that previous funding under the *Indian Act* is not an acceptable baseline as First Nations are now responsible for the full range of jurisdiction contained within their agreements, including legislative jurisdiction, regulatory frameworks, policy development and design, program delivery, administration, appeals and reviews, and program evaluation. In addition, as is the case with many Indigenous governments, Tsawwassen First Nation has included not only status members, (which the federal government bases its per capita allocation on) but other community members without status. The cost of program operations is therefore higher than the federal allocation in virtually every program area. Further, in Tsawwassen First Nation's view, the federal mandates to negotiate Fiscal Financing Arrangements are inconsistent with the commitments set out in the Fiscal Relations Chapter of the Treaty. Specifically, they cite that Canada relies heavily on a clause that requires consideration of prevailing policies while not considering the many other clauses that discuss matters such as comparability and the nature and extent of jurisdiction.

In order to pay for these additional costs and to enhance programs and services to a point where they help improve the socio-economic conditions of Tsawwassen First Nation Members, the Tsawwassen First Nation government has taken the approach of bringing commercial and industrial development to their settlement lands, and to open settlement lands to housing development for non-members on a lease basis. This is seen as the way to provide sufficient revenues to the Tsawwassen First Nation government to meet program and services needs of their members. Lease and other revenues have started to flow into the Tsawwassen First Nation government, and some advances in the nature and quality of programming have already been achieved, according to interview respondents.

Development has also brought increased employment in construction-related positions, government

³² Vision Statement 2013 – 2018. Tsawwassen First Nation.

positions, and the arts. Retail employment is expected to become available very soon. According to Tsawwassen First Nation government officials, unemployment among employable community members is now very low. This takes into account that a small percentage of members are deemed unemployable because of a range of types of disabilities including physical, mental health and addictions.

Education and Skills Development

According to the Tsawwassen First Nation *Health, Education and Community Development Act*, a Tsawwassen student is entitled to receive culturally suitable educational programs appropriate to his or her needs.

Children from Tsawwassen First Nation are bused to several nearby provincial schools where they have been typically been assessed as being below grade level. Tsawwassen First Nation has hired a full-time teacher to work in the community and at the schools, and operate a youth centre after school program, a lunch program, recreation programs, science camps and other programming. According to one interview participant, “With self-government, I can now deliver any program I want, whereas before the budget was very fixed in specific program areas, so we just did the same thing year after year.” Tsawwassen First Nation now holds education planning and program development sessions every year prior to the budget period, and recommendations to the Legislature are based on community needs and priorities rather than federal government funding streams. According to several people interviewed, there are positive impacts already, but the progress is slow and given the small sample size of children attending local school, it is difficult to assess the impacts accurately at this stage. Tsawwassen First Nation is working with the Delta School District to develop meaningful cultural programming.

Tsawwassen First Nation has enhanced post-secondary education. Financial assistance and guidance is now extended to all community members, and the scope of support is extended to vocational training and trades, which a number of community members have taken advantage of to gain employment in projects on Tsawwassen First Nation settlement land and elsewhere. What self-government has brought is the ability to strengthen economic development so that Tsawwassen First Nation can now afford to extend education and training programs and have the discretion to design programs according to need.

There have also been some advances in job training. Commercial and housing developments on settlement land have created local employment, and there is a staff person devoted to linking community members up with available jobs. Many are in construction and road work at present, and there will soon be retail business and employment opportunities. As well, there has been a burgeoning of local arts. There is a policy in place that all commercial developments include Indigenous artwork, and local artists have begun to prosper from this market.

Interview participants pointed to a change for many community members from dependence on funding from the Tsawwassen First Nation, to a greater degree of independence and a presumption that regular employment is now their way of life, and that they will be able to afford, in time, to live a comfortable life.

Interview participants also pointed to the local day care as an example of the benefits of self-government. Pre-school was funded by INAC only for status members, but for the last three years, Tsawwassen First Nation opened it to all Tsawwassen First Nation Members without charge,

regardless of whether they have status, in order to improve access for its Members and to eliminate a barrier to employment for some parents. The facility is fully licensed by the Fraser Health authority. Children are taught how to speak *Hun'qum'i'num*, and immersed in traditional Tsawwassen First Nation culture.

Health and Social Services

Progress in this area was initially slow. Under the *Indian Act*, Tsawwassen First Nation was accustomed to a standard set of criteria and procedures set by the federal and provincial governments for administering health services and social assistance, but now they are accountable to the Tsawwassen First Nation government, which has instituted some different procedures to ensure equitable treatment for all community members. They have reduced some barriers to health treatment by, for example, allowing and supporting off-site treatment to enhance discretion. They have developed partnerships, such as with the Fraser Valley Health Authority, where they have been able to secure funding for a nurse practitioner. As well, local healers are now permitted to be at treatment sessions where that is recommended and desired by the patient, as a way to steer practices to be more culturally relevant.

Several interviewees also said that their working relationship with the provincial Ministry of Children and Family Development has improved, however, there are challenges that remain. Today, they work closely together and Tsawwassen First Nation has more say in how interventions are managed and the range of outcomes that are available. The Tsawwassen government delegates all powers, duties and functions for child protection services on Tsawwassen Lands to the Ministry of Child and Family Development in accordance with *Children and Families Act*.

The administration of social assistance was undertaken by Tsawwassen First Nation prior to the Treaty, but as noted above, delivery mechanisms and policies have changed. The Government supports whatever actions are required to move community members toward employment, including a range of types of support, guidance and linkages with prospective employers.

Land and Economic Development

Tsawwassen First Nation strives to make use of the high value of its land holdings to bring in lease and tax-base revenue needed to govern effectively and to enhance programs and services for the benefit of community members. The Tsawwassen First Nation government and its private sector partners are now fully engaged in development of the settlement lands adjacent to the original reserve lands. Roads are being expanded in the immediate area to accommodate the developments. A major retail development is expected to open for business in 2016. An industrial park is in the early stages of development with some companies already leasing land and infrastructure being built. Tsawwassen First Nation members who hold fee simple interests for plots of Tsawwassen First Nation land are starting to build houses of their own. The capital costs required to support development (over \$100M) is a major risk to Tsawwassen First Nations economic model. In addition, Tsawwassen First Nation is currently considering building a terminal to export liquefied natural gas on Tsawwassen land designed for industrial use.³³

Revenues have begun to flow from the new lease arrangements, and some enhancement of programs and services has begun. The expectation is that revenues will rise considerably in the coming years, and that the community will be well-positioned for the long-term. It was also noted

³³ Membership vote on the proposed facility will be taking place in December 2015.

that, as a result of this economic development, employment rates in the community have risen rapidly. The belief among those interviewed is that this trend will continue as the retail project brings business and employment, and as industrial development broadens the range of construction work and other industrial employment.

A second risk raised by most Tsawwassen First Nation officials interviewed is related more to quality of life in the community. According to Tsawwassen First Nation government leaders, members of the community are positive about the changes. However, they pointed to one area that has presented difficulty. Members wishing to build homes on their allotments of land have in the past been able to do so without many conditions related to building or other standards. Under self-government, it is the Tsawwassen First Nation government that sets the rules, and Tsawwassen First Nation has adopted modern building codes that are much more robust than those under the *Indian Act*. Furthermore, it took some time for the building regulations to be established and for permitting processes to be established. This has meant that members wanting to build homes were faced with additional costs and unwanted delays. A number of members have expressed dissatisfaction with this matter. However, government leaders say that the permitting process is now fully operational and houses are starting to be built.

Ultimately, the Tsawwassen First Nation perspective is that the federal government, and to a lesser extent, the provincial government, will not likely be the primary focus for the success of the community. Instead, their relationship with the private sector is where they are focusing their efforts. As stated by one senior official in the Tsawwassen First Nation government, we need governments to help keep doors open, to smooth operations through adapting and using the required regulations and limited funding, but this is not as an end in itself, but as a way to help us develop private partnerships. This strategy recognizes that government transfers for programs and services are not sufficient to raise the community from a state of relative poverty to one of health and prosperity for its members.

As well as improving social conditions, economic development may well be the only source of new dollars needed to fund the program transfer that will make the promise of the inherent right a reality. It is becoming increasingly clear that the fiscal capacity of First Nation governments, which is directly related to their tax base, will become a very important determinate of the level of self-determination they enjoy.³⁴

Recommendation 3:

It is recommended that INAC work with other federal government departments and agreement partners to strengthen the implementation of the agreements in order to work towards the achievement of their anticipated outcomes.

³⁴ Dack, 2004. p. 688.

6. Conclusions and Recommendations

6.1 Conclusions

Implementation of self-government agreements support international norms towards greater recognition of the rights of Indigenous people to self-government as expressed in the *United Nations Declaration on the Rights of Indigenous Peoples*. As of the launch of the Inherent Right Policy in 1995, Canada has taken both the legal and policy position that Indigenous rights of self-government are included in the rights protected by Section 35. In that regard, Canada has moved ahead of the courts, who have not yet definitively pronounced on the existence and scope of Indigenous rights of self-government.

A statistical analysis of socio-economic impacts found positive effects for Indigenous persons living in a census subdivision that has attained a self-government agreement. This includes positive effects on total income, labour force attachment, household incomes, and household crowding. Moreover, the Community Well-Being Index and all its component indices rise when a self-government agreement is in place.

Self-government agreements have enabled the emergence of a set of institutions that are creating an increased sense of control and stewardship and are fostering an increased sense of empowerment. There is however challenges associated with establishing governance, which include the administrative capacity to effectively manage all of the new responsibilities under self-government and the perception that other levels of government have not lived up to the spirit of the self-government agreement and that more collaboration to strengthen the approach to implementation of the agreements is required among agreement partners.

There is reluctance to assume jurisdiction over program and services due to a perceived lack of local capacity and inadequate financial resources, as well as a reluctance to assume responsibility for program and services areas that are viewed as being historically underfunded. Although many areas of jurisdiction have not been drawn down to date, having the ability to do so has improved working relations with provincial/territorial governments.

From a performance measurement perspective, there is limited ongoing performance data related to the impacts of self-government agreements, including limited baseline data to use to compare with current measures of progress. This includes performance data within Indigenous, federal, and provincial/territorial governments. In addition, literature on the impact of self-government agreements is sparse, limited and spotty. The academic community has not turned its attention in any systematic fashion to assessing the impacts of these new agreements upon Indigenous communities resulting in limited quantitative and qualitative evidence available to determine self-government community-based impacts.

6.2 Recommendations

It is recommended that INAC:

1. Continue to support research that assesses the socioeconomic impacts of self-government agreements.
2. Work with Indigenous governments in the development of performance measurement strategies that measure progress related to their self-government agreements.
3. Work with other federal government departments and agreement partners to strengthen the implementation of the agreements in order to work towards the achievement of their anticipated outcomes.

Appendix A – Self-Government Agreements

There are currently 22 self-government agreements and one sectoral self-government agreement in place.

Eighteen comprehensive land claim agreements with self-government

Agreement by Province / Territory	Number of Groups	Effective Date
British Columbia		
Nisga'a Final Agreement	4 First Nations	2000
Tsawwassen Final Agreement	1 First Nation	2009
Maa-nulth Final Agreement	5 First Nations	2011
Yale Final Agreement	1 First Nation	*To be confirmed
Tla'amin (Sliammon) Final Agreement	1 First Nation	*2016
Newfoundland and Labrador		
Labrador Inuit Land Claim Agreement	5 Inuit	2005
Northwest Territories		
Tilcho Agreement	4 First Nations	2005
Yukon Territory ³⁵		
Vuntut Gwitchin First Nation Final Agreements	1 First Nation	1995
First Nation of Nacho Nyak Dun Final Agreement	1 First Nation	1995
Teslin Tlingit Council Final Agreements	1 First Nation	1995
Champagne and Aishihik First Nation Final Agreements	1 First Nation	1995
Little Salmon/Carmacks First Nation Final Agreements	1 First Nation	1997
Selkirk First Nation Final Agreements	1 First Nation	1997
Tr'ondëk Hwëch'in Final Agreements	1 First Nation	1998
Ta'an Kwach'an First Nation Final Agreements	1 First Nation	2002
Kluane First Nation Final Agreements	1 First Nation	2004
Kwanlin Dun First Nation Final Agreements	1 First Nation	2005
Carcross/Tagish First Nation Final Agreements	1 First Nation	2006

*implementation legislation in force - effective date scheduled as stated

³⁵ In 1993, 13 Yukon First Nations, represented by the Council for Yukon Indians, signed the Umbrella Final Agreement with the Government of Canada and the Yukon Territorial Government (YTG). The Umbrella Agreement was a document that established a framework for the negotiation of individual land claim agreements with Yukon First Nations. The terms of the Umbrella Agreement are included in all such subsequent agreements. Yukon First Nations therefore have a land claims agreements and separate self-government agreements.

Four stand-alone self-government agreements – including one legislated comprehensive self-government arrangement

Agreement by Province / Territory	Number of Groups	Effective Date
British Columbia		
Sechelt Indian Band Self-Government Agreement**	1 First Nation	1986
Westbank First Nation Self-Government Agreement	1 First Nation	2005
Manitoba		
Sioux Valley Dakota Nation Self-Government Agreement	1 First Nation	2014
Northwest Territories		
Déline Final Self-Government Agreement	1 First Nation	*To be confirmed

*implementation legislation in force - effective date to be confirmed

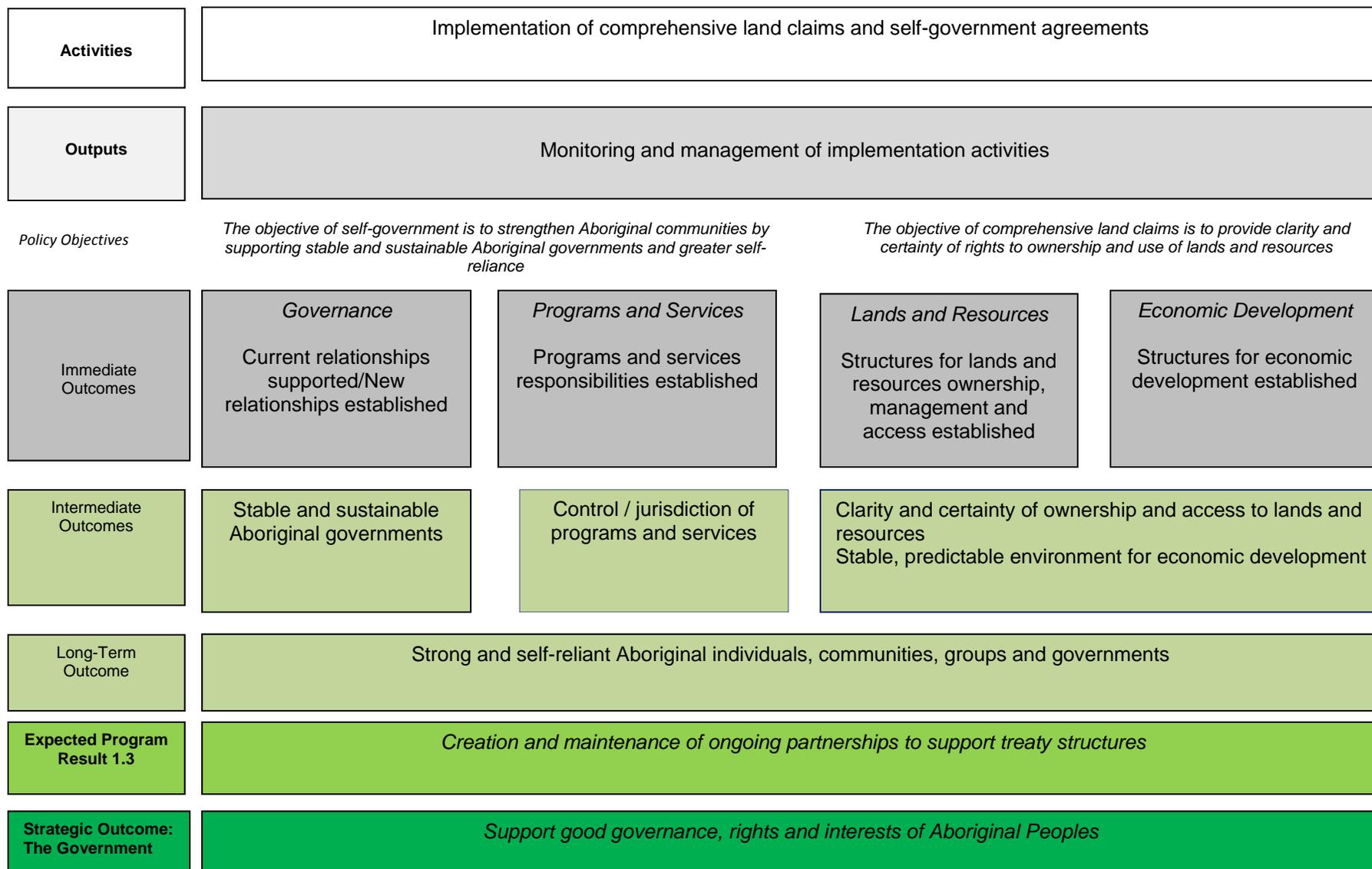
** Legislated comprehensive self-government arrangement

One sectoral self-government agreement

Agreement by Province / Territory	Number of Groups	Effective Date
Nova Scotia		
Mi'kmaq Kina'matnewey	10 First Nation	1999*

*Mi'kmaq Education Acts (federal and provincial legislation) passed in 1999. Provisions with respect to education for 10 Nova Scotia First Nations came into effect in 1999 and in 2005 for an additional two First Nations.

Appendix B – Logic Model – Implementation of CLCAs and SGAs



Appendix C – Approach to Evaluating Land Claims and Self-Government Agreements

A new approach to evaluating comprehensive land claims and self-government agreements was endorsed at the November 2010 Evaluation, Performance Measurement and Review Committee.

Methodological changes include supporting a joint approach to evaluation work between Canada and Indigenous signatory groups when assessing the impacts of comprehensive land claim agreements and self-government agreements.

This approach supports evaluative and performance measurement strategies that provide full five-year evaluative and performance measurement coverage of all financial authorities related to comprehensive land claims and self-government – this includes full coverage of evaluation issues of relevance and performance through the three prong evaluative approach

Status of Evaluations Undertaken Related to Land Claims and Self-Governments

- **Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements** - Focused on the impacts of comprehensive land claims and self-government agreements and was conducted jointly with a participating Indigenous signatory group. The evaluation focused on land and resources and economic development. *Evaluation completed June 2013*
- **Evaluation of the Negotiation of Comprehensive Land Claims and Self-Government Agreements** - Focused on how Indigenous and Northern Affairs Canada, on behalf the Crown, is managing the negotiations of comprehensive land claims and self-government agreements. *Evaluation completed November 2013*
- **Evaluation of the Impacts of Self-Government Agreements** - Focused on the impacts of self-government agreements. The evaluation was conducted jointly with participating Indigenous governments and focuses on governance and program and service delivery. *Evaluation to be completed March 2016*

**Summary of Five Year Evaluation and Performance Measurement Strategy Coverage
Related to Land Claims and Self-Government**

<p>Evaluation</p>	<p>Evaluation of the Impacts Comprehensive Land Claims and Self-Government Agreements</p> <p>completed June 2013</p>	<p>Evaluation of the Negotiation of Comprehensive Land Claims and Self- Government Agreements</p> <p>completed November 2013</p>	<p>Evaluation of the Impacts of Self-Government Agreements</p> <p>Completed March 2016</p>
<p>Performance Measurement</p>	<p>PM Strategy for Measuring the Impacts of Comprehensive Land Claims and Self-Government Agreements</p> <p>completed June 2012</p>	<p>PM Strategy for Negotiation of Comprehensive Land Claims and Self- Government Agreements</p> <p>completed September 2014</p>	<p>PM Strategy for 1.3 Implementation of Comprehensive Land Claims and Self-Government Agreements</p> <p>completed November 2014</p>

Appendix D – Reference List – Literature Review

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