



First Nations Public Finance

Vancouver roundtable summary report November 17, 2014

On November 17, 2014, Canada's Public Policy Forum convened a roundtable discussion in Vancouver with leaders engaged in increasing First Nations access to public finance. The purpose of the roundtable was to identify ways to facilitate indigenous governments' access to revenue by leveraging new and current financing arrangements with a particular focus on improving public finance options. This discussion builds on the first roundtable of this series held in Toronto on October 15, 2014, which examined how to improve access to large-scale project financing for First Nations businesses and communities.

The roundtable was moderated by David Mitchell, President and CEO of the Public Policy Forum, and included an Opening Prayer and song by Chief Ian Campbell, hereditary Chief of the Squamish First Nation; opening remarks by Tamara Vrooman, President and CEO of Vancity; and an overview of the Supreme Court decision, *Tsilhqot'in Nation v. British Columbia* was provided by Merle Alexander, Partner with Gowlings LLP. At the conclusion of the discussion, Tamara Vrooman provided a summary of recommendations and closing remarks were offered by Harold Calla, Chair of the First Nations Financial Management Board. The roundtable was convened at Vancity Centre in Vancouver, B.C.

Partners for this initiative are Aboriginal Affairs and Northern Development Canada, First Nations Financial Management Board, RBC and Vancity (see Appendix 1 for the Roundtable Agenda and Appendix 2 for the list of participants).

The Changing Landscape

The meeting opened with a brief discussion of the recent *Tsilhqot'in Nation v. British Columbia* decision. Given the ramifications of the case for First Nations engagement in resource development opportunities, it was a useful introduction for a roundtable focused on challenges and opportunities in access to capital. The importance of this case for public finance is the recognition that Aboriginal title has not been extinguished in areas not covered by treaties, and also that benefits flowing from the use of resources in territories traditionally used by First Nations must be negotiated prior to development. First Nations now have a potentially strengthened negotiating position for large projects, increasing the economic motivation for consent to development on their traditional lands. On the other hand, the judgment may increase uncertainty among investors over development in areas lacking treaties, potentially making Canada's natural resource sector less competitive.

Fostering Economic Development

Participants agreed that current funding arrangements between the federal government and First Nations make investing in infrastructure development difficult, even though it is well understood that infrastructure projects may attract important private sector investment and revenue to communities. Some were particularly critical of short-term contribution agreements issued annually that generally cover only approximately 80% of operating costs (although certain types of infrastructure are eligible for 100% funding), with First Nations forced to find revenue sources to top-up their operating budgets. This shortfall makes it difficult to provide on-reserve public amenities such as roads and public buildings and can lead to existing infrastructure suffering from insufficient maintenance and a depreciation of assets; they end up needing to be replaced sooner than expected.

It was also stressed that operating at a lower financial capacity creates challenges for leveraging available revenue to generate economic growth. Revenue that could be used for economic development is instead used to fund operational costs or maintain existing infrastructure. In order to alleviate these challenges, it was proposed that governments consider multi-year agreements which would allow for more funding stability, and would also likely create more favourable lending conditions. While the federal government has begun to issue multi-year contribution agreements, the roll-out of this new funding model will take time.

Multi-year agreements are common with provincial governments. Municipalities and provincially-funded services, such as long-term care facilities, are often funded through long-term service agreements. These arrangements could provide a model for working with First Nations in a way that is similar to how provincial governments work with municipalities.

Other potential sources of revenue were also discussed, for example, leasing land and resources, as allowed under the *First Nation Lands Management Act*. Under this legislation, reserve land can be leased for a variety of purposes including vacation rentals or business development. If signed for 25 or 30 years, these leases could provide predictable, low maintenance revenue streams. Similarly, the *Indian Act* permits land transactions between a First Nation and its members. This allows a member to gain lawful possession of reserve land through a Certificate of Possession. This may provide useful leverage for obtaining a loan to start a business. Taxes are another area where First Nations governments could expand their revenue base. In general terms, it was agreed that communities should work together, where possible, to share experiences and strategies for generating new sources of revenue.

Increasing Collaboration

It was noted that there is a need for greater connectivity among communities, governments and the private sector. Communities working together benefit from pooled resources, both in terms of human and financial capital. Building community networks can lead to a better understanding of the benefits and risks of proposed projects as well as more robust plans for economic development at a regional level.

Roundtable participants also agreed that public-private partnerships (P3s) may be a useful means for building public infrastructure. One clear advantage of P3s is that any risk associated with a prospective project is shared by the private sector, the public sector or users of the service. It was proposed that

some First Nations communities would benefit from a better understanding of how to develop P3 arrangements. Given the large scale required to make P3s feasible (\$50M+), it may make sense for communities to pool their infrastructure requirements as in the proposed Atlantic Waste and Water Project (below).

P3s and First Nations in Canada

Kokish River Hydroelectric Project

The first P3 Canada project signed with a First Nations community, the run-of-the-river hydroelectric development located on north-eastern Vancouver Island, British Columbia, was announced in September 2014. The Kokish River Hydroelectric Project was funded through a loan of up to \$12.94 million by the Government of Canada. The project is owned and managed by Kwagis Power LP, a limited partnership of the 'Namgis First Nation and Brookfield Renewable Energy Partners. 'Namgis is a partner in decision making and monitoring, with Brookfield responsible for design, construction, financing, operations and maintenance.

By entering into this long-term partnership agreement, the First Nation has secured an active role and participation in a sustainable energy project in its ancestral lands, without undue risk to 'Namgis. The First Nation has the ability to monitor and evaluate the private partner's performance.

The \$1.2-billion P3 Canada Fund is managed by PPP Canada, a Crown corporation responsible for advancing Canadian public private partnerships through the provision of expert advice and support to all levels of government.

Atlantic Waste and Water Project Proposal

The Atlantic Policy Congress is exploring the feasibility of developing a public private partnership for the development of waste and water systems in all 33 First Nations communities in Atlantic Canada. Working with Aboriginal Affairs and Northern Development Canada and PPP Canada, the proposal is in the research and development phase while environmental scans are being conducted. Significant planning is needed to determine how one central waste and water system can be integrated to best serve 33 independent communities.

The *Safe Drinking Water for First Nations Act* introduced regulations on water provision and water safety, yet many First Nations express concern that they do not have the financial resources and infrastructure needed to meet those regulations. Creating a water authority will allow all 33 communities to meet the new regulations while maintaining community-based decision making. This project holds the potential to decrease the risk of contaminated water and increases the health, safety and resilience of communities.

Conclusion and Key Considerations

Clearly, there are numerous mechanisms that could be used by First Nations to gain access to public revenue; however some of these may not be well known and may be difficult to employ. It was recommended that by focusing on building knowledge, and assessing the effectiveness of existing programs and tools, access to public finance could be improved. This was viewed as preferable to focusing on building new mechanisms or practices.

Collaborating on projects and sharing resources when possible helps build networks among communities and also supports strong decision-making and good governance. In addition, increased First Nation government revenues are required to make the most of existing financing tools. The key considerations below were raised during the discussion and focus on the potential for public finance in funding sustainable communities.

Key Considerations for First Nations

- Pursue opportunities for creating partnerships with other First Nations communities as a way to pool resources and work together on infrastructure and resource development.
- Understand what options are available to raise revenue based upon First Nations experience; for example, leasing land as a revenue stream.
- Explore the role and requirements of P3s to determine if this framework would be appropriate for community project development.

Key Considerations for Governments

- Continue moving toward multi-year service agreements to create a more predictable and sustainable source of funding for First Nations.
- Collaborate across levels of government to understand best practices in service agreements that can be implemented to improve economic sustainability.

This roundtable discussion provided a constructive dialogue based on creating an enabling environment for economic development. A common thread connecting the two roundtables to-date in this series is the observation that First Nations communities require the financial management tools, business acumen and resources needed to make informed decisions and to be an equal partner with industry. The third roundtable of this series will be convened in Ottawa in the New Year and will bring together leaders from across sectors to discuss opportunities and tools for First Nations financial literacy.

With thanks to our partners



Appendix 1

First Nations Public Finance

Monday, November 17, 2014

12:00 p.m. – 2:30 p.m.

12th floor Boardroom in Vancity Centre at 183 Terminal Ave. Vancouver, B.C.

AGENDA

11:45 a.m.	Light lunch served
12:10 p.m.	Opening Prayer Chief Ian Campbell
	Welcome and tour-de-table David Mitchell, President and CEO, Public Policy Forum
	Opening remarks Tamara Vrooman, President and CEO of Vancity
	Remarks on Supreme Court decision, <i>Tsilhqot'in Nation v. British Columbia</i> Merle Alexander, Partner with Gowlings LLP
	Moderated discussion
	Closing remarks/summary of recommendations Harold Calla, Chair, First Nations Financial Management Board
2:30 p.m.	Adjourn

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Questions for consideration

- What modifications are needed in fiscal arrangements between First Nations and the federal government?
- Should private-public partnerships be encouraged on reserves? If so, how?
- What are the impediments to more active private-sector involvement in financing First Nations' infrastructure needs?
- How can First Nations boost their tax revenues?
- How should governance and transparency issues in bands' financial management be addressed?
- How can communication on fiscal matters be improved between First Nations, the federal government and outside providers of capital, as well as among First Nations themselves?

With thanks to our partners:

Canada 

 **FIRST NATIONS
FINANCIAL MANAGEMENT BOARD**
**LE CONSEIL DE GESTION FINANCIÈRE
DES PREMIÈRES NATIONS**



Vancity

Appendix 2

PARTICIPANT LIST

Moderator: David Mitchell

President and CEO
Public Policy Forum

Merle Alexander

Partner
Gowlings LLP

Stewart Anderson

Manager, Community Investment
Vancity

Randy Bauslaugh

Partner
McCarthy Tetrault

Doris Bear

Head, Regional Aboriginal Banking
RBC

Steve Berna

COO
First Nations Finance Authority

Harold Calla

Executive Chair
First Nations Financial Management Board

Ian Campbell

Chief
Squamish Nation Chiefs and Council

Karl Carisse

Director
Aboriginal Affairs and Northern Development
Canada

Andre Chabot-Gaspe

Community Investment Intern
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Allan Clarke

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Jim Craven

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Sean Jones

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Dennis Price

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Murray Rowe Jr.

President
Forrest Green

Caroline Sanfaçon

Regional Vice-President for British Columbia
Canada Mortgage and Housing Corporation

Tamara Vrooman

President and CEO
Vancity

Gabrielle White

Project Lead
Public Policy Forum