EDUCATION FUNDING: From Grants & Contributions To Statutory

FROM ‘GOOD WILL OF THE SOVEREIGN’ TO ‘CONSTITUTIONAL’ OBLIGATION

By
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CANADA’S BUDGET PROCESS: A BRIEF OVERVIEW

- CANADA’S BUDGET PROCESS is, more or less, a year long process.

- Cabinet is the body that sets the budget.

- Parliament expresses its agenda, priorities, who gets how much of the available financial resources, what initiatives are funded, through the budget process.

- There are 4 main stages to the process: preparation, consultation, budget decision, budget approval

- Consultation includes: Ministers, Treasury Board, Senior Officials, PMO, Dept. Officials, etc.
PART I: PARLIAMENTSARY BUDGET PROCESS

CABINET: Sets budget

CONSULTS: PMO, Ministers, Dm’s, Adm’s, Etc.

BUDGET

REVENUE

GOV'T INCOME

TAXES, FEES, ETC.

EXPENDITURES

ESTIMATES(DEPT. BUDGETS)

STATUTORY

Grants & Contributions
The budget is divided in two main parts:

- **Revenue** is the Government’s income from taxes, service charges, fees, etc.
- **Expenditures** are the Government’s allocation of the financial resources to all the programs, services, costs, and so on for running the country.
The budget is usually expressed in terms of “tabling of the estimates’ which are all the departmental budgets.

The estimates are the detail estimates of the amount of money each department or agency requires for running their programs for the coming year.

Each department has to have an expenditure plan which includes ‘plans and priorities’ and ‘performance reporting requirements’.

Parliament must vote on the budget. The bureaucracy cannot spend money unless it has been passed by parliament.
On the expenditure side of the budget, there are two types of appropriations: **Statutory** and **Grants & Contributions**.

**Statutory** appropriations are budgeted according to standing legislation such as old age security. The allocations for statutory funded programs are on-going and funded according to a formula laid out in the statute. More than half of all budget allocations are based on statute.

**Grants & contributions** are time-limited and voted on by parliament on a year-to-year basis. The legal basis for expending the moneys usually expire at the end of the fiscal year.
Grants & contributions are budget votes to transfer funds to individuals, organizations, First Nations, and so on, and used by government to fulfill its objectives.

Grants & contributions are government-wide and not specific to First Nations.

Contributions are conditional transfers of funds to assist individuals, organizations, local governments including First Nations to meet and fulfill government objectives. Contributions are subject to accountability checks.
Grants are unconditional transfers of public money to individuals, organizations, local governments including First Nations.

Grants have eligibility requirements but once one qualifies for a grant they are usually not subject to accounting and auditing checks but may have disclosure requirements.

**Note:** Departments like INAC have a large number of programs. Once voted upon and allocated, INAC, for instance, can move moneys from one program area to another without having to seek parliamentary approval.
PART II-HOW ARE FIRST NATIONS FUNDED?

CABINET -> Ultimately sets the budget

BUDGET

REVENUE

EXPENDITURES

ESTIMATES (DEPT. BUDGETS)

STATUTORY

GRANTS & CONTRIBUTIONS

FIRST NATIONS
HOW ARE FIRST NATIONS FUNDED?

- As the diagram shows, First Nations are funded as part of the grants and contributions budget vote scheme.

- The general legal/constitutional authority for funding First Nations is s.91(24): “Indians and lands reserved for the Indians”. But the general attitude on the part of government is ‘good will of the sovereign’ re first nations funding. There is no mention of treaty obligations, fiduciary, nor s.35.

- Grants & contributions are discretionary on the part of government.

Note: the insistence on ‘own source revenue’. Government wants you to use your own money supplemented by contributions.
‘Own source revenue’ is unreasonable in view of the fact that all ‘Indian moneys’ go into the Consolidated Revenue Fund (government’s cash flow) and that all budget allocations come from the CRF. In other words, First Nations pay for their own programs to a large extent.

The government does not keep Indian moneys in a separate account: it is just all Consolidated Revenue Fund moneys. Indian moneys all go into the CRF and the government turns around and uses the CRF to fund the grants and contributions they give to First Nations. The CRF is not all Indian moneys but a good amount is Indian moneys.
PART III-FROM GRANTS AND CONTRIBUTIONS TO STATUTORY FUNDING

CABINET: Ultimately sets the budget

BUDGET

REVENUE

EXPENDITURES

ESTIMATES (DEPT. BUDGETS)

STATUTORY (S.35)

G’s & C’s (Discretionary, S.91(24))

FIRST NATION
The constitutional basis for statutory funding would be s.35: aboriginal and treaty rights.

The statute for the funding would be an implementation of treaty.

The statute would include a funding formula.

The statute would include adjustment factors such as inflation, population, etc.

The statute would include accountability and reporting requirements, checks and balances.
Equalization payments to provinces is entrenched in the constitution [s.36(2)].

Payments to provinces are unconditional: funds can be spent as seen fit by the receiving province.

Equalization payments are based on a funding formula.

Natural resources of the province is not included in the formula (own source revenue?).

The formula includes adjustment factors.

**See CANADA’S EQUALIZATION FORMULA, www.lop.parl.gc.ca
ACHIEVING STATUTORY FUNDING

- The government always wants a legal entity as a conduit for the transfer of funds.
- Optional approaches to the legal entity requirement:
  - Trustee body of Chiefs from Treaty 6, 7, & 8
  - Direct transfers to each First Nation who, in turn, can delegate to its’ own school board
  - A school board for each Treaty area
  - One mega school board covering the province
    - Funneling education money through the province
    - Funneling money through a ‘TSAG-type body
FROM Grants & Contributions to STATUTORY FUNDING

Benefits of Statutory Funding:
- Funding is automatic with no annual negotiations
- Money flows directly from Treasury Board: No INAC involvement!
- Moneys transferred will be a constitutional and legislative obligation on the part of the crown compared to Grants & Contributions which are discretionary and supplemental
- Accountability and reporting requirements will be different than the requirements for Grants & Contributions

- *TRUE INDIAN CONTROL OF INDIAN EDUCATION*
ACHIEVING STATUTORY FUNDING

- Statutory funding should be ‘opt in’ and not mandatory.

- Statutory funding will not be ‘an all and be all’ funding for first nation’s education. First nations will still be able to apply for grants and contributions for programs not covered by the statute or Treaty.
Appendices, General information, References

The Federal budget in Canada, [www.mapleleaf.com](http://www.mapleleaf.com)

How does native funding work?, [www.cbc.ca](http://www.cbc.ca)

An Overview of the Canadian Budget Process, [www.parlcent.org](http://www.parlcent.org)


Legislative Process, [www.parl.gc.ca](http://www.parl.gc.ca)


Figure 1
The Expenditure Management System

Final decisions on Budget
January-February

Budget speech
Tabling of Estimates
February

Finance - TBS

Prime Minister
Minister of Finance

Minister of Finance

Treasurer Board
PCO

Cabinet committees
Ministers TBS

Cabinet committees
Ministers PCO

Finance
House Standing Committee on Finance

Budget consultation process
October-December

Finance-PCO

Release of Budget Consultation Papers
October

Cabinet committees
Treasurer Board
PCO

Cabinet review of priorities
June

May-June

House standing committees
Departments TBS

Review and release of departmental Outlooks

Cabinet review of strategies
September-October

Finance-PCO

Cabinet committees
Ministers TBS

Department TBS
Treasury Board

Preparation and review of departmental Business Plans

March-June

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AANDC New Funding Approaches - Funding Authorities

New funding approaches apply to agreements beginning April 1, 2011.

1. **Grant** - a transfer payment, not subject to be accounted for or normally subject to audit but require specific Cabinet policy and Treasury Board of Canada Secretariat program spending authorities. Recipient may need to meet pre-conditions for eligibility and entitlement, may be required to report on results achieved. Grants can be used for any duration of time necessary to achieve program results.

2. **Set Contribution approach** - a transfer payment that is subject to performance conditions outlined in a funding agreement, must be accounted for and are subject to audit, set contribution funding is the basic type of contribution used in the past and where recurrent funding is returned to the department annually.

3. **Fixed Contribution approach** - formerly called the Flexible Transfer Payment (FTP), annual funding amounts established by formula or the total expenditure is based on "fixed cost approach." Fixed funding is distributed on a program basis, possible to allow recipients to keep any recurrent funding based on meeting program requirements, use recurrent funding on the program objects or any other purpose agreed to by DIANDO.

4. **Flexible Contribution approach** - AANDC is multi-year funding to may moved within cost categories of a single program during the lifetime of the project agreement and is used when a program requires, a two or more year relationship with a recipient to achieve objects and can be funded under a multi-year funding agreement, recurrent funding must be returned to DIANDO at the end of the project. The recipient must meet certain assessment criteria to be approved of AANDC funding.

5. **Block Contribution approach** - formerly known by DIANDO's previous Alternative Funding Arrangement (AFA), AFA is multi-year funding managed in a similar way to AFA. Block funding allows funds to be reallocated within the block of programs as long as progress of program objectives is being achieved. Recurrent funding can be kept by the recipient. Block funding applies to land and estates management, registration, administration, elementary-secondary education programs and services, post-secondary, income assistance and assisted living, National Child Benefits Reinvestment, capital facilities and maintenance, band support and tribal council funding, economic development.