

The Rise of the Anishinabek Nation Part II: The Fiscal Agreement

by Hayden King

LATE LAST MONTH, on the eve of the month-long Anishinaabek Nation Governance Agreement (ANGA) vote, I wrote an [article](#) raising some concerns with the Agreement and the Anishinaabek Nation's ratification campaign. Since the article was published, it generated much discussion as well as a [response](#) from ANGA negotiator Martin Bayer. This dialogue is a positive sign in an otherwise nearly non-existent public conversation on the ANGA.

Still, there remains one area that requires more clarification: the fiscal agreement.

At the time of publication, the only public information on the fiscal agreement revolved around a one-time \$548,000 per First Nation governance implementation contribution from Canada. There was also an oft-cited reference to governance funding increasing [seven-fold](#). This has been confusing given that there is no documentation to support the claim.

Indeed, despite requests over the past two weeks, the Anishinaabek Nation, my community ANGA communications person, nor Chief and Council, could identify the source of this increase in funding.

So with additional analysis, this Brief attempts to more clearly break down the fiscal arrangement in the ANGA. How much funding is involved, where the funds come from, and how they are calculated.

THREE ANGA FUNDING SOURCES

There are three sources of funding under the ANGA, that taken together, form the transfer of resources from from Canada to the Anishinabek Nation in a given year. This model will be new and distinct from the Indian Act system currently in place, which offers communities between one and five years of funding chunks based on how well they have managed finances in the past, according to some Indian Department official's metrics. Funding now is largely tied to the on-reserve status population (though no one is quite sure how it works).

Governance Implementation (One-Time Funding)

The first of these sources, and the only one that flows to ANGA First Nations immediately, is the one-time governance implementation cash of \$548,000 for each community. As I wrote last month, given the ten-year implementation period, this could translate to a relatively small annual amount. But the Fiscal Agreement actually expects these funds to cover six distinct activities, too: implementation of law, governance communications, orientation workshops and training, transitional planning, information management, and establishment of data infrastructure.

When considering the full scope of expectations, then, the adequacy of these funds compared to the scope of tasks, is all the more questionable. Of course, it is important to note that they would not be available without the ANGA.

General Expenditure Base

Here is the category that is referenced by ANGA negotiators and communications people as representing “seven times the current governance funding.”

In community presentations, Anishinaabeg are told that each community will receive approximately \$1.7 million more than they currently receive for annual governance operations. We are told this is an across the board increase. However, it was not included in the original Yellowhead Brief as an increase in funding because there is no documentation that commits Canada to these funds, or for how long.

Even the Fiscal Agreement, for instance, does not include this information. I have yet to see any documentation of this commitment.

Nonetheless, the Fiscal Agreement does spell out that the General Expenditure Base will replace all Band Support Funding and Band Employee Benefits relating to governance. More, these funds will be expected to cover ten core functions: law-making, governance administration, finance and human resources, legal and professional advice, insurance, elections, inter-governmental relations, public registry of laws, communication and membership registries.

Social Transfer

It is expected that over time, the newly constituted Anishinabek Nation Government, will take on more areas of jurisdiction than currently in the ANGA. Beyond elections and citizenship, education (through the Anishinabek Education System), child welfare, and any other areas of jurisdiction could potentially be delivered by the Anishinabek Nation. As those “sectoral” areas are added to the ANGA, funding will correspondingly be increased.

Given the lack of information around the general expenditure base, it is unclear if annual governance funding will be increased to support the expansion of jurisdiction into new areas of programs and services.

It is also unclear what role the province will play in funding areas that fall under their constitutional jurisdiction, if at all (like child welfare). However, there is a provision in the fiscal agreement that offers a financial incentive for ANGA communities to take over provincial programs and services.

THE ANISHINABEK NATIONAL BANK?

Canada will only support the ANGA so far. It is expected, like all other self-government agreements, that the First Nations also contribute to governance implementation costs.

Calculating Our Contribution

Just how much First Nations need to contribute is subject to an overly complicated formula that takes Anishinabek Nation revenues, includes an annual federal contribution that decreases over the course of 20 years, and then offers credit for taking over those “sectoral” social policy areas. Plugging in all the numbers spits out an amount of the Anishinabek Nation contribution for any given year. It goes something like this:

In the first year of the ANGA, if our eligible revenues are \$1 million, adding the other variables, our contribution to self-government is actually zero. This is because there is more federal support up front. The Anishinaabek Nation contribution will actually be zero for the first five years and then gradually increase. By year ten, as the federal support decreases, the

Anishinaabek contribution would be approximately \$170,000. And by year twenty, that figure would rise to \$500,000. If Anishinaabek Nation revenues are \$10 million, our contribution would be \$5 million. And so on.

In other words, after 20 years, a half of eligible revenues would contribute funding to Anishinaabek Nation governance.

An important qualification here is that this number rises or falls depending on the amount of programs and services the Anishinaabek Nation takes over.

More programs and services means the formula is amended to require a lower percentage of revenues from the Anishinaabek Nation. This is what devolution looks like: the federal government downloads administrative responsibilities to First Nations with financial incentives to do so. If the ANGA is ratified, time will tell if those incentives match the required need.

One more point here: those “eligible revenues”—the revenues that are eligible to be “clawed back” or included in the Anishinaabek Nations’s share of governance funding—include taxes that the Anishinaabek Nation collects, resource royalties, business profits, property income, fees charged or “miscellaneous” revenues. (It is worth having a discussion on the types of tax or revenue royalty regimes that are possible or expected under this Agreement). Ineligible revenues include land claim settlement dollars, provincial gaming revenue or the sale of Anishinaabek lands.

Centralizing our Finances

There are two more important questions to ask about this formula.

Once we have determined how much revenue the Anishinaabek Nation puts towards governance, how are the individual First Nation contributions calculated and how is the transfer from Canada distributed to individual First Nations?

The answer to both of these questions is that we don’t know. But the Fiscal Agreement makes it clear that the annual transfer from Canada (general expenditure base plus sectoral funding, minus the Anishinaabek contribution) will go directly to the Anishinaabek Nation and only the Anishinaabek Nation. They are the “sole agent” regarding the Fiscal Agreement.

From there, the Anishinaabek Nation and the First Nations that comprise it, develop an “internal distribution” model to determine how and when the funds flow. There is a reference to status Indian populations of individual First Nations to help calculate our annual funding, so that may also play into the distribution model (it is unfortunate that Indian status is used here, which means Canada will continue to have discretion on this particular variable). Moreover, you have to assume that some larger communities with more resources will be supporting smaller communities with fewer. But by and large, these difficult questions will have to be worked out later.

In presentations, the Anishinaabek Nation has made it clear that most federal funds will “flow through” the Nation and to individual communities.

SOLVING THE ANGA FISCAL PUZZLE

Perhaps the most complicated aspect of the ANGA, the Fiscal Agreement is full of opaque formulas, technical language, and a lack of actual numbers. It is understandable that there is much confusion.

The reality is that we only really have a handful of formulas and methodologies that will be dependent on variables.

These include the population of status Indians in our communities (not band members), the programs and services ANGA communities are willing to take over, and revenues raised by the collective of communities that comprise the Anishinabek Nation.

While an answer to the question “Where’s the Zhooniya?” is still largely unanswered, hopefully this Brief serves as the basis for discussion in communities about the proposed fiscal regime and how it might compare to what currently exists or other possible models.

There is much more to say about the funding model offered here by Canada against the backdrop of stolen Anishinaabe land and wealth, but perhaps that too, is a conversation for communities.