

The fate of recommendations

Critical factors in the implementation of programs delivered to First Nations in Canada

This article examines a case of recommendation implementation in evaluation practice. It summarizes the results of a performance audit, Management of Programs for First Nations, completed by the Office of the Auditor General of Canada and reported to the Canadian Parliament in May 2006. The performance audit took an innovative approach to examining First Nations programs that included applying a causal lens to identify and understand factors critical to the successful use of recommendations in complex government decision-making.

The performance audit assessed the progress of federal departments in implementing recommendations that the Auditor General had made in audits reported between 2000 and 2003 on First Nations issues. The Office of the Auditor General's performance audits usually make recommendations and sometimes follow-up audits report on their implementation, but typically do not address the reasons behind the progress of adoption; this audit was different in that it attempted to ascertain some of the reasons for progress or the lack of progress. This innovative approach resulted in the identification of several factors that appear to be critical to the successful implementation of recommendations, and to the successful design and delivery of programs.

Introduction

This article first describes Aboriginal peoples in Canada and the nature of their relationship with the Canadian federal government, as well as the federal government's responsibilities to them. It then outlines the mandate of the Office of the Auditor General of Canada and its rationale for undertaking the performance audit. Finally, the methodological approach, as well as the findings, are discussed. The information presented in this paper is drawn largely from the audit chapter, 'Management of programs for First Nations', included in Report of the Auditor General of Canada, May 2006 (Auditor General of Canada 2006).

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Aboriginal peoples in Canada

The Canadian Constitution recognizes three groups of Aboriginal peoples—Indians, Inuit and Métis—descendants of the original inhabitants of North America. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs. Indians, referred to as First Nations peoples, live across the country, and there are over 600 First Nations in Canada. Inuit are the Aboriginal people of Arctic Canada. Inuit live primarily in just over 50 communities across Nunavut, the Northwest Territories and northern parts of Labrador and Quebec. Métis are people of mixed First Nation and European ancestry who identify themselves as distinct from First Nations peoples or Inuit. They are largely based in western Canada.

Statistics Canada (2003) reported nearly one million people in Canada who identified themselves as Aboriginal in the 2001 Census of Population, and that Aboriginal peoples' share of Canada's population, 3.3 per cent, is second among selected countries to New Zealand, whose Maori population makes up 14 per cent of its total population. By comparison, Aboriginal peoples account for 2.2 per cent of Australia's population, and 1.5 per cent of the total population in the United States. Of the nearly one million people in Canada who identified themselves as Aboriginal, two-thirds are First Nations peoples. The median age in 2001 was 23.5 years compared with 37.7 years in the non-Aboriginal population, and just over one-third of the population was aged 14 and under.

As the majority of federal government funding and programming is directed towards First Nations peoples, the largest group of Aboriginal peoples, and as the performance audit focused primarily on programs and services for First Nations, the remainder of this paper refers to First Nations peoples.

Canada's relationship with First Nations

The relationship as it currently exists between First Nations and the Canadian federal government may be seen as a product of well over 500 years of interaction (Royal Commission on Aboriginal Peoples 1996). Starting in 1701, the British Crown and First Nations entered into treaties, defined as solemn agreements that set out promises, obligations and benefits for both parties. Over the next several centuries, treaties were signed to define, among other things, the respective rights of First Nations peoples and government to use lands that First Nations peoples had traditionally occupied. Treaties include historic treaties made between 1701 and 1923 and modern-day treaties known as comprehensive land claim settlements. Treaty rights already in existence in 1982 (the year that Canada's Constitution was passed), and those that arose afterwards, are recognized and affirmed by Canada's Constitution.

So much of what happens today is the result of experiences of the past. First Nations peoples have said that the relationship between the Crown and First Nations has not always been a pleasant one, and that today's relationships were not always built upon a history of trust, fairness, equality or justice. Indeed, much of this history is defined by treaties between the Crown and First Nations—and much of the relationship by differing views as to whether treaties have been respected (Auditor General of Canada 1996).

First Nations communities face persistent challenges such as high rates of unemployment, poverty, and health problems (Health Canada 2002). Over the past 35 years, the federal government has repeatedly acknowledged the need for meaningful change and a new relationship in order to correct long-standing problems. Beginning with the *White Paper on Aboriginal Issues* in 1969, the federal government has made numerous attempts to redefine its relationship with First Nations peoples; several of these attempts were in reaction to First Nations themselves putting pressure on the government for changes. Other efforts include a Native Agenda in 1990; a Royal Commission on Aboriginal Peoples, reporting in 1996; *Gathering Strength: Canada's Aboriginal Action Plan*, the government's response to the Commission's report; the Canada-Aboriginal Peoples Roundtable, which began in 2004; and the First Ministers' Meeting on Aboriginal Issues, in November 2005. Despite these efforts, long-standing problems remain.

The federal government's responsibilities for providing services to First Nations

The relationship between Canada and First Nations is considered by the courts as *sui generis*, meaning special and unique. The federal government is responsible for fulfilling treaty and fiduciary responsibilities to First Nations peoples—lawful obligations that arise from treaties, the *Indian Act*, and other legislation. It is also responsible for delivering to First Nations communities social and economic programs that can directly improve the lives of the people living there—programs similar to those provided by the provinces, territories, and municipalities elsewhere in Canada.

The government's relationship with First Nations has changed substantially over time, especially in recent decades. Initially, the federal government, primarily through Indian and Northern Affairs Canada, delivered programs and services directly to First Nations communities. Over time, this changed as the federal government started to delegate the administration of programs to First Nations. In the 1980s, this process accelerated as the government began to transfer or devolve more responsibility to First Nations. While First Nations now deliver many of the programs funded by the federal government, they continue

to operate under delegated authority, and the ultimate responsibility for programs still rests with the departments' ministers. The relationship is still evolving, with continued emphasis on the transfer of program administration to First Nations and self-government initiatives.

According to Canada's Treasury Board Secretariat, the federal government, through 34 departments and agencies, spent almost \$8.2 billion Canadian in fiscal year 2004–05 on 360 programs and services targeted to Aboriginal peoples, including First Nations peoples. These encompassed health, lifelong learning, safe and sustainable communities, housing, economic opportunity, lands and resources, and governance and relationships (President of the Treasury Board of Canada 2005).

The mandate and role of the Office of the Auditor General of Canada

One of the most important roles of Parliament in Canada is to hold the federal government to account for its use of taxpayer dollars. To do this effectively, parliamentarians need objective and fact-based information about how well the government raises and spends public funds. The Office of the Auditor General of Canada is an independent and reliable source of such information. The Auditor General is an Officer of Parliament who reports to the House of Commons. Parliament has granted the Office specific powers and responsibilities, to ensure its independence. As the federal government's legislative auditor, the Office carries out financial audits, special examinations and performance audits.

Performance audits can be thought of as systematic and objective examinations of government activities that seek to answer the following questions: Are programs being run with due regard for economy, efficiency, effectiveness and environmental impact? Does the government have the means in place to measure their effectiveness? Performance audits do not question the merits of government policies. Rather, they examine the government's management practices, controls and reporting systems based on its own public administration policies and on best practices. The Office reports its findings, which may include areas that are working well and recommendations for improvement. While there are substantial differences in the methodologies used in performance audit and program evaluation, there are also similarities—notably that both are used to assess the performance of public sector programs (Davis 1990; Mayne 2006).

The methodology

Performance audits tabled in the Canadian Parliament since 2000 (and indeed before this) observed significant problems and challenges in the design and delivery of programs and services directed to First Nations. These reports contain

many recommendations aimed at improving these programs and services. The Office's monitoring of progress of departments in implementing the recommendations made in these reports indicated that while progress was being made in some cases, in others there was a lack of progress.

The Office decided to undertake a full follow-up performance audit to assess progress federal departments had made to responding to the recommendations in previous audits. It was decided to focus on chapters published between 2000 and 2003 as this time frame was considered appropriate for recommendations to still be relevant, while it also allowed for sufficient time for meaningful progress to have been made. The chapters selected addressed a wide variety of issues that dealt with government priorities, including the need to support First Nations capacity, deliver programs more effectively, and monitor performance. Finally, they focused on several federal organizations so the audit could assess how well their programs and activities were integrated.

The Office's performance audit methodology requires that audit objectives and audit criteria be established for each audit. The objectives of this audit were:

- to assess the progress that federal departments had made in implementing the recommendations in seven previous reports on First Nations programs
- to identify, as a result of this assessment, the factors that enabled or impeded federal organizations in their efforts to implement the recommendations.

The criteria were that it was expected each federal organization would have:

- implemented the recommendations for which they are responsible
- implemented the recommendations within the time frames and according to the commitments originally made
- set out revised time frames in which to implement recommendations, where original time frames or commitments had not been met
- identified barriers to their implementation, where revised time frames had not been set out for implementing recommendations.

Seven chapters were selected for follow-up, encompassing 37 audit recommendations (Auditor General of Canada 2000, 2001, 2002a, 2002b, 2003a, 2003b, 2003c). They examined the following programs, services and arrangements:

- community health programs and non-insured health benefits that cover the costs of prescription drugs, dental care and medical transportation (reported in 2000)
- comprehensive land claims, or modern-day treaties, which cover a wide range of issues such as title to certain lands, wildlife harvesting rights, participation in land and resource

management, economic development, and self-government arrangements (reported in 2001)

- the reporting requirements of funding agreements between the federal government and First Nations (reported in 2002)
- the food mail program, intended to provide a subsidized rate to mail fresh nutritious food and other essential items to the North to increase the level of nutrition in the diets of those living in the North (reported in 2002)
- programs and funding mechanisms to support on-reserve housing (reported in 2003)
- institutional arrangements to support economic development of First Nations communities (reported in 2003)
- third-party intervention when a First Nations community delivering a program or service under a funding agreement fails to meet its obligations (reported in 2003).

The first part of the audit involved utilizing the Office's established performance audit methodology. For each of the 37 recommendations for which the audit assessed progress, the auditors reviewed files, statistics, and other documentation that organizations submitted to the Office as part of ongoing monitoring. Auditors then conducted interviews and reviewed documentation at the headquarters of key federal organizations delivering programs and services to First Nations. They also conducted interviews and detailed file reviews in selected regional offices of these organizations. As well, an audit advisory committee was established, composed of external experts in the field of First Nations issues, to provide the auditors with objective advice and guidance as the audit was undertaken. Taking these data into account, progress against each recommendation was scored as 'satisfactory' or 'unsatisfactory'.

However, as part of this audit, the auditors went a step further than is typically the case. In most performance audits there are audit findings but not an attempt to get at the 'whys'—the reasons that led to these findings. Given the lack of progress on key recommendations, and the fact that in some cases several years has elapsed with little change, the auditors attempted to identify some of the underlying reasons for the lack of progress. In this regard, the auditors applied a causal lens as part of the audit work.

Based on the audit findings regarding the extent to which the recommendations had been implemented, the auditors sought to identify factors that appeared to have been critical in the successful implementation of the recommendations. They then interviewed senior officials across government who provided their views on these factors and additional factors they considered important to improve the lives of First Nations people at the program-specific level but also at a more general and broad-based level. The auditors

also gained the perspectives of selected First Nations representatives, both at program-specific and more general levels. Finally, the Office's cumulative observations, gained through numerous performance audits and over several years, were also reflected in this assessment.

The findings

Overall, the federal government's progress in addressing the 37 recommendations on First Nations issues has been unsatisfactory. While the issues are extremely complex, federal organizations had agreed with most of the recommendations and had committed to taking action. The audit found their progress on 15 of the recommendations was unsatisfactory. These are generally the recommendations that are most important to the lives and wellbeing of First Nations peoples. Progress to date was satisfactory on 22 of the recommendations, although in most cases implementation is not yet complete. These recommendations tend to be more administrative in nature and have less direct impact on the lives of First Nations peoples. This is consistent with other utilization research that shows that recommendations associated with hard-to-change aspects of social programming are the most difficult to implement. Administrative processes are more likely to be addressed than more substantive aspects of organisational functioning (Sharma 2004).

The key findings by area are summarized below:

- *Health programs*: the audit found improvements in the administration of health programs funded through agreements—the preparation and use of community health plans, increased controls to ensure that funding is used effectively and targeted to community practices. However, the audit found that the government had been slow to monitor the use of prescription drugs, and to intervene where potentially inappropriate use of prescription drugs was observed.
- *Housing on reserves*: the audit found improvements made in managing First Nations housing programs, including the better integration of various programs. However, it also observed that mould contamination in houses in reserves continued to be a significant problem.
- *Land claims*: the audit found that the federal government had not evaluated comprehensive land claims agreements, meaning that it had not measured and reported on whether the implementation of land claim agreements had been successful.
- *Reporting requirements*: the audit found a lack of meaningful action by the federal government to reduce the unnecessary reporting burden placed on First Nations communities and to develop more efficient procedures for obtaining information required.

- *Economic development:* the audit found the federal government, in consultation with First Nations, had identified, planned, legislated, and begun to establish new First Nations institutions which, among other things, were intended to provide First Nations with the access and private capital enjoyed by other governments.

Factors critical in implementing the recommendations

As a result of the follow-up audit work, as well as interviews with senior officials across the federal government, the auditors identified several factors that have either enabled the successful implementation of the recommendations or, by their absence, hindered their implementation and, in turn, impeded significant change in the lives of First Nations people. They are as follows:

- sustained management attention
- coordination of government programs
- meaningful consultation with First Nations
- developing capacity within First Nations
- establishing First Nations institutions
- appropriate legislative base for programs
- conflicting roles of Indian and Northern Affairs Canada.

These factors are discussed below.

Sustained management attention. Management's sustained attention is critical to realizing substantive change in government generally. Senior officials interviewed during the audit emphasized that sustained attention on the part of senior management will be required to effect lasting change. While much remains to be done in many areas, the continued attention, leadership, and commitment of senior management to sustained action are required if the government is to successfully implement the recommendations and make First Nations programs more effective.

Coordination of government programs.

Coordination among federal organizations delivering similar programs is crucial to efficient and effective programming and to implementing many of the recommendations. The audit points to the need for organizations to coordinate their programs and the requirements they place on First Nations. Senior federal officials interviewed during the audit emphasized that the lack of a coordinated approach to First Nations programs is often a problem. They also noted that programs, many of which are similar, are typically 'stove-piped'—that is, they are narrowly defined and often overlap and duplicate each other. The audit findings do indicate, however, that it is possible for federal organizations, working with First Nations, to coordinate the planning, management, and delivery of programs.

Meaningful consultation with First Nations. The audit found that meaningful consultation often contributes to or results in significant change. Meaningful consultation refers to open engagement and dialogue between the federal government and First Nations on the objectives to be achieved and the means of attaining these. More than half of the recommendations highlight the importance of organizations moving forward in consultation with First Nations. For the most part, the audit noted that federal organizations made satisfactory progress in implementing recommendations that included engaging in meaningful consultation with First Nations. Conversely, it found that the absence of meaningful consultation can impede successful implementation of recommendations.

Developing capacity within First Nations. The federal government's success in implementing many of the recommendations has depended in large part on the capacity of the First Nations to carry out the implementation of programs in their communities. In several of the audits reported between 2000 and 2003, the Auditor General noted the need for more effective capacity development of First Nations. The government agreed with resulting recommendations and has started to work with First Nations to develop the institutions required to provide them with the technical support they need to deliver effective programs. Federal officials interviewed during this audit stressed the importance of capacity building and development as a means to improve delivery of programs.

Establishing First Nations institutions. The audit found that establishing First Nations institutions is important to improve the health and the economic and social development of First Nations communities. Several senior officials interviewed noted the importance of developing a stable and professional First Nations public service to administer programs devolved by the federal government, and that establishing First Nations institutions could facilitate this. Several First Nations institutions recently developed hold promise for greater investment and economic opportunities in First Nations communities. Given the need and importance of such institutions, and the interest of First Nations in developing them, the opportunity exists to establish more of these institutions.

Appropriate legislative base for programs. A legislative base for programs clarifies respective roles and responsibilities, eligibility, and other program elements. For example, in the area of prescription drug use analysis and the potential for serious harm caused by the misuse of prescription drugs, the audit noted the absence of specific enabling legislation and recommended that the government seek a renewed mandate to clarify the authority base, purpose, and objective of the program. In this case, the absence of a legislative base caused confusion among government officials and clients about the jurisdiction, allocation of responsibilities, and rights of the government and clients. Senior officials have

also noted the importance of such a mandate for identifying and clarifying the rights and obligations of both the federal government and its clientele.

Often, existing legislation is seen as inadequate in today's complex and rapidly changing environment. For example, the *Indian Act*, established in 1876, is widely considered to be an outdated piece of legislation that, for the most part, does not address current issues. Housing, education, and health and safety are examples of areas where legislation now exists provincially but where there is little federal legislation that applies to First Nations.

In other cases, new legislation has served to provide a sound foundation for initiatives. The government has brought forward legislation for the successful conclusion of land claims and the development of new institutions. In addition, Indian and Northern Affairs Canada and First Nations have also cooperated in developing the *First Nations Land Management Act*, *First Nations Oil and Gas and Moneys Management Act*, and the *First Nations Commercial and Industrial Development Act*. The audit found that the processes leading to the successful legislation in these instances had the following common elements: First Nations proposed the legislation to address roadblocks to progress they had identified, and the legislation resulted from successful negotiations and addressed First Nations needs. The audit noted that the legislation assisted the federal government in meeting its stated policy objectives, and the legislation includes the provision for optional participation of individual First Nations.

Conflicting roles of Indian and Northern Affairs Canada. In many of the areas examined in this audit, Indian and Northern Affairs Canada relates to First Nations in several different roles, sometimes at cross-purposes with one another. Senior government officials told the auditors that they recognize that there is at least the appearance of conflict in the many roles that the Department is required to fulfill. This may have resulted in an erosion of trust between the Department and First Nations over time.

Conclusion

Performance audits can be regarded as an approach to determining the impact of government-sponsored programs (Owen 2006). A key aspect of most performance audits is to present a set of recommendations to organisations responsible for these programs. Implementation of these recommendations is seen as the way that programs can be improved. While there has been some attention paid to the nature and presentation of recommendations (Hendricks & Papiaginnis 1990), there has been less attention paid to organizational factors that affect the take-up of recommendations and the subsequent improvement of programs.

This paper attempts to redress this situation by providing a case study from Canada.

The Office of the Auditor General's performance audit on the management of programs for First Nations was undertaken not only to follow up on whether previous audit recommendations had been implemented, but also in order to identify factors that appear to have been critical to the successful implementation of these recommendations. Ensuring that these factors are fully considered when adjusting existing programs and implementing new ones will make a significant difference in the lives of First Nations people.

Finally, it is important to note that the Government of Canada has responded to the audit, stating that it agreed that the seven factors identified by the Auditor General are important. It added that it was clear that where satisfactory progress had been made on the Auditor General's recommendations, one or more of these factors were present. In addition, they constitute an increasingly important part of the government's approach for the broader Aboriginal agenda (Auditor General of Canada 2006).

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