

**Yukon First Nation Self-Government Agreements
Financial and Systems Services Analysis
Interim Report
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Executive Summary

Under the terms of the Umbrella Final Agreement, seven of fourteen Yukon First Nations have completed final and self-government agreements. As implementation of the self-government agreements becomes more complete, attention is beginning to turn to who will pay for what as Yukon First Nations governments assert their legislative and program authorities. The purpose of this project is to assist with the development of appropriate guidelines, methodologies and systems which can be used to “sort out who will pay for what”. It builds on earlier work undertaken by MacKay & Partners.

Section 1 introduces the report, outlining the **project history** and the **methodology** used in the research.

Section 2 of the report considers **some potential approaches to government services costing** beginning with a review of lessons from other jurisdictions. These lessons include: a) credible numbers are important, b) other land claim implementation experiences are of marginal use in the Yukon context, and c) the Canada/Yukon devolution exercise has considered both direct and indirect costs.

After considering the context of the project requirements, three approaches to government services costing were selected for review: a) average/per capita costs, b) activity based costing, and c) alternative service delivery costing. The process chosen needs to ensure that all the relevant costs are identified, and to balance simplicity and credibility.

Of the three approaches examined, alternative service delivery costing is the most appropriate for the purposes of calculating both new and incremental costs and cost savings. The assurance with which the Yukon can use this approach in negotiations with Canada is enhanced because it is recommended by the Canadian Department of National Defence and Treasury Board.

Section 3 of the report looks specifically at the calculation of **new and incremental costs** as provided for in section 13.6.0 of the self-government agreements. New and incremental costs are defined as *those additional costs incurred by the Government of Yukon in the course of providing administration of justice services in respect of a charge made under a Yukon First Nation law*. They are triggered in two stages: the passing of a law by a First Nation that is subject to 13.6.0; and the laying of a charge under such a First Nation law in the Yukon’s judicial system.

Recommended guidelines for the calculation of new and incremental costs are:

- NI.1 When Yukon First Nation governments enact laws for which the Government of Yukon provides prosecution, adjudication and incarceration services, it is intended that there should not be either a cost or a windfall to the Government of Yukon.
- NI.2. The provisions in the self-government agreements under which new and incremental costs will be incurred by the Government of Yukon are in force for a limited time period.
- NI.3 The calculation of costs associated with charges under First Nation laws will consider the full costs.

NI.4 The cost calculations will be based on assumptions and numbers that are credible and defensible.

NI.5 The procedure for determining the new and incremental costs to be invoiced by the Government of Yukon will balance simplicity and completeness.

Section 3 of the report concludes with the presentation a recommended approach for calculating new and incremental costs. The main features of the recommendations are:

1. Base the calculation of new and incremental costs on full costs.
2. Use the Department of National Defence's alternative service delivery guidelines as the basis for calculating new and incremental costs.
3. Continue discussions and research into the method of calculating new and incremental costs that best meets the guidelines outlined in section 3.2.
4. Implement a system that will ensure that new and incremental costs are identified and invoiced to the Government of Canada on a timely basis.

The discussions and research to date have identified four options that appear to meet the guidelines for new and incremental cost calculations. A moderate amount of effort and discussion should enable a decision to be made on the method to be used. Once the preferred method is chosen, a detailed procedure can be determined, and appropriate staff training undertaken.

The calculation of **cost savings** as envisioned in section 18.0 of the self-government agreements is the subject of Section 4 of the report. An examination of the agreement indicates that the transfer of a program or service to a First Nation will not necessarily result in cost savings to the Yukon Government.

Recommended guidelines for the calculation of cost savings are:

- CS.1 When programs, or portions of programs, are transferred from the Government of Yukon to the First Nation, it is intended that there should not be either a cost or a windfall to the Government of Yukon.
- CS.2 The identification of **costs** associated with the transfer of programs and services to First Nation governments will consider the full costs.
- CS.3 The calculation of **cost savings** associated with the transfer of programs and services to First Nation governments will consider only avoidable costs.
- CS.4 The cost savings calculations will be based on assumptions and numbers that are credible and defensible.
- CS.5 The cost savings calculation will be based on the scope of the program or service at the point in time that it is transferred to the First Nation government.
- CS.6 The cost savings calculations are to be based on the experience of a time period which is long enough to be representative of the average actual experience of the Yukon government. This experience will serve as a source of information for determining the costs of the program or service as it exists at the point of time defined in CS.5.
- CS.7 The procedures for determining the cost savings will balance simplicity and completeness.

The main features of the recommended approach for calculating cost savings are:

1. Use the alternative service delivery guidelines as the basis for calculating cost savings.

2. Perform a business case analysis for a program or service the first time it is transferred to a First Nation government.
3. Use the avoidable costs calculated for this initial transfer of a program to decide if the cost savings are enough to warrant a change to the fiscal transfer amount.
4. Use the information to decide whether future transfers of the same program to other First Nations need to be separately analyzed or whether this initial calculation can serve all future transfers.
5. Identify the points in the process of transferring programs and services to First Nations when the avoidable costs increase significantly.
6. Ensure that data needed to do credible baseline costing of programs and services transferred to First Nations is available.

This cost savings template outlines a procedure for calculating cost savings upon transfer of a program or service from the Yukon government to a First Nation. The work involved in each step is detailed in section 4.4.

Cost Savings Template

1. Identification and description of program/service
2. Scope of program/service
3. Preliminary cost calculation
4. Cost savings calculation
5. Cumulative cost savings
6. Recommendations
7. Presentation and preservation of results

Almost every program and service currently delivered by the Yukon government may potentially be delivered by a Yukon First Nation government. Thus, the spectrum of program and service transfers to which the cost savings guidelines might someday be applied is virtually as broad as the spectrum of programs and services delivered by the Government of Yukon.

There are advantages to taking a consistent approach to cost savings calculations for all transfers of programs or services to First Nation governments, as described by the cost savings template. All governments can build experience in this new field, which will improve the efficiency and effectiveness of the calculations. Lessons learned over time can be passed on succinctly and clearly. Suggestions for useful modifications to the template and process can be made in a consistent context. Over time, negotiations with Canada will be able to focus on the specifics of the cost savings calculation rather than on the appropriateness of a particular approach.

Some justice-related programs or services do not currently record the First Nation citizenship of their clients. This may make it difficult to gather reliable information for the cost savings calculations should these programs or services be transferred.

1. Introduction

The Umbrella Final Agreement, signed in May 1993 by Yukon First Nations and the governments of Canada and the Yukon, is the template for a truly comprehensive land claim settlement. Yukon First Nations which have become self-governing under the terms of the UFA have access to an extensive list of governance powers similar in many aspects to the powers enjoyed by Canada's provinces and territories. Powers accessible by self-governing Yukon First Nations include social programs, education, health services, fiscal transfers as well as the administration of justice. To date, seven of fourteen Yukon First Nations have completed final and self-government agreements.

While the self-government agreements contain a great deal of detail about which powers may be acquired (or, 'drawn down') via negotiation, a matching level of detail is not provided on the funding side of the equation. Instead, the agreements rely on rather more general conceptions of 'cost savings' and in the specific case of the administration of justice, the reimbursement of 'new and incremental costs' to describe how funding flows are to be altered. As implementation of the self-government agreements becomes more complete, however, attention is beginning to turn to sorting out who will pay for what when First Nations assert their legislative and program authorities.

The purpose of the Financial and System Analysis Services project is assist the Government of Yukon with the development of appropriate guidelines, methodologies and systems which can be used to help 'sort out who will pay for what'. The analysis has been undertaken with specific regard to the administration of justice provisions in the self-government agreements. The project has been divided into two phases.

The objective of Phase One is to investigate potential approaches to the costing of government services and to identify approaches which could be applied to the costing of the administration of justice provisions contained in sections 13.6.4 and 18.0 of the self-government agreements. The purpose of this interim report is to present the results of that investigation. The objective of Phase Two of the project is develop the systems required to implement the appropriate costing methodologies as agreed upon by the client on the basis of the Phase One findings. The complete terms of reference for the project may be found in Appendix A.

1.1 Project history

The Financial and System Analysis Services project builds on earlier work undertaken in the same topic area by MacKay & Partners Chartered Accountants. In February 1999, the Yukon Department of Justice contracted Mackay & Partners to delineate the new and incremental costs to the Government of Yukon of administering justice services related to the prosecution, adjudication and punitive enforcement of offences created under First Nation laws. The resulting report, *Cost of Justice Services Arising from First Nation Self-Government Agreements*, dated March 1999, suggested a process for identifying and calculating new and incremental costs which was based on actual individual cases. This process assumed that the number of charges under First Nation laws would be small. The report identified the need for a mechanism to identify individuals charged and convicted under First Nation laws,

something not presently in place. It also identified the needs both to identify a position in the department that would be a “central repository” for the cost information, and to train other staff to collect the necessary information and pass it on to the central repository.

In February, 2000 the Aboriginal Law Group of the Yukon Department of Justice contracted with Mackay & Partners to develop the method and approach to calculating cost savings when justice services or programs are transferred to a First Nation, pursuant to section 18 of the SGAs. This was in anticipation of the transfer of the administration of justice to Teslin Tlingit Council, which was being negotiated at that time. As part of the work, Mackay & Partners analysed the cost savings that would result from Phase I of the transfer of the administration of justice to Teslin Tlingit Council, as it was understood at that time.

The report produced in March, 2000, *Cost Savings and Other Issues under First Nation Self-Government Agreements (SGAs)*, illustrated how the cost savings to Yukon would not necessarily equal the cost of the program transferred; this was mainly because the transfer of services would be too small to do more than free up a small amount of Yukon staff time, time which would reasonably be expected to be needed to carry out other responsibilities. Therefore it was unlikely that the Government of Yukon would need fewer employees or fewer court circuits after the transfer of Phase I of the administration of justice.

The *Cost Savings and Other Issues under First Nation Self-Government Agreements (SGAs)* report does acknowledge, however, that as more and more responsibilities are transferred to First Nations, there may be points at which less Government of Yukon staff will be required. It suggested that the Government of Yukon needed to begin to identify these points. The report also identified a number of limitations on the research into cost savings. A number of branches do not identify whether their clients are members of a Yukon First Nations. Even when such identification is made, it is not usually automated, so that considerable effort is required for gathering information according to First Nation citizenship. The report suggests that the Yukon Department of Justice’s court registry, legal services, legal aid and victim services, and for youth justice services, the Department of Health and Social Services, need to identify the use of their programs and services by First Nation citizens.

For the current project, the Yukon Department of Justice has contracted with Mackay & Partners and Vector Research to continue the work involved with developing guidelines and methodology for the Departments of Justice and Health and Social Services to determine new and incremental costs relating to section 13.6 of the SGAs. The project also includes continuing to define and develop a set of principles and processes for determining the cost savings that can be used within the Departments’ various branches.

1.2 Methodology

Two main methodologies were employed in the preparation of this report. The first was in the form of a literature review of traditional sources of information such as cost accounting textbooks and research papers. Information found in paper-based sources was supplemented with information found via research on the world wide web. Sources used in the preparation of this interim report are listed in the references section which follows the main body of the

report. The second main methodology used was in the form of discussions (in person, by telephone and by email) with Government of Yukon officials. Guidance was also provided by the Administration of Justice Implementation Negotiation Team.

2. Potential Government Services Costing Approaches

2.1 Lessons from other jurisdictions

a) Credible numbers are important

An article called “*Who does what*” in Ontario: the Process of Provincial-Municipal Disentanglement was about huge municipal resistance to the provincial government’s proposal to download some responsibilities. An important point was that the provincial government underestimated the importance of having accepted and transparent numbers to accompany their plans. When it took a year for them to actually produce financial figures, their credibility was eroded.¹ Because both new and incremental costs and cost savings upon transfer of a program are untested concepts in the negotiations between Yukon and Canada, credible numbers may shorten the negotiations.

b) Other land claim agreement implementation experiences are of marginal use to the Yukon context

Tungavik Federation of Nunavut’s agreement resulted in the establishment of the new territory Nunavut which has a population which is 80% Inuit.² The government of Nunavut was funded from scratch. Cost savings calculations for NWT do not appear to have been required as part of this exercise. The NWT agreements do not seem to be program transfers. Instead they have apparently set up public bodies which are funded by both territorial and federal governments, and which serve all citizens.

The Nisga’a settlement with British Columbia and Canada is primarily a land-based settlement in which the Nisga’a received municipal-like powers. They receive fiscal transfers from Canada and British Columbia to enable them to provide government services. Neither new and incremental costs or cost savings exercises are required in this agreement.³

The Treaty Land Entitlement Framework Agreement in Saskatchewan provides cash compensation, with a specific amount to be spent on buying land on the open market, and the rest to be used as the First Nation sees fit. The First Nation has legal jurisdiction over planning, building standards, health regulations and municipal-type services and taxation. Self-government powers such as administration of justice, education, health and social

¹ Graham, Katherine A. and Phillips, Susan D., “*Who Does What*” in Ontario: the Process of Provincial-Municipal Disentanglement, Canadian Public Administration, Volume 41, No.2, pp. 175-209

² *Tungavik Federation of Nunavut (TFN) Comprehensive Claim: Northwest Territories*: Indian and Northern Affairs website: [//www.inac.gc.ca/pr/info/info08_e.html](http://www.inac.gc.ca/pr/info/info08_e.html)

³ *The Nisga’a Final Agreement in Brief*, British Columbia website: www.aaf.gov.bc.ca/aaf/treaty/nisgaa/docs/newbrief.htm

services are not included in this agreement.⁴ This experience does not appear to offer much relevance to the situation in the Yukon.

c) Devolution has included indirect costs

A Government of Yukon Health and Social Services policy analyst indicated that First Nations did some “due diligence” work in the course of negotiating program transfers from Canada, and included indirect costs such as the share of head office costs in their calculations. Canada seems to have accepted this premise.

The federal Department of Indian Affairs and Northern Development has described the resources to be transferred upon devolution to Government of Yukon as including salaries, wages and benefits and other O&M budget items available in the Yukon and associated with the headquarters positions in support of Yukon programs. They mention using a “reasonable method of allocation” for the latter.⁵

Section 18 of the self-government agreements refers to negotiations between Canada and Yukon. However, the First Nations are at the negotiating table, and may support possible federal contentions that cost savings should include indirect costs.

2.2 Lessons from the field of cost accounting

Sections 13.6.4 and 18.0 of the self-government agreements are each concerned with different aspects of how to calculate the funding of First Nation administration of justice. A common element found in both, however, is a requirement to identify and account for the costs associated with implementing the administration of justice provisions. Accordingly, the starting point for this section of analysis was to perform a review of the general costing field.

The notion of costing, in an accounting sense, has its roots in the discipline of management accounting and was developed to provide a better understanding of how to improve the efficiency of production processes than could be provided with ordinary financial accounting methods. Given the private sector genesis of the cost accounting field, the usefulness of costing methodologies has generally been limited to processes which produce goods, as opposed to services, as the final output. During the last decade or so, however, the field has expanded to include applications to service producing industries including services provided by government. In the course of reviewing the literature in the cost accounting field, several approaches with potential application to the costing of government services were identified. Three approaches were selected for review.

The terminology used to describe the costing approaches is specific to the field. Accordingly, some relevant definitions are presented below before moving on to the presentation of the three selected approaches.

⁴ Dust, Theresa M., *The Impact of Aboriginal Land Claims and Self-Government on Canadian Municipalities: The Local Government Perspective*, ICURR Press, 1995

⁵ *Devolution of the Northern Affairs Program to the Yukon Government: A Federal Proposal*, Indian and Northern Affairs Canada, 1996

The **full cost** of producing a good or service includes both the direct and indirect costs. By way of example, consider a process for the production of plywood. The **direct costs** associated with the manufacture of one piece of plywood would include the cost of the raw logs, plus the number of hours of labour spent by workers in the mill to produce that one sheet, plus the number of kilowatts of electricity, etc. The **indirect costs**, on the other hand, would include the capital costs of the mill building and equipment, overhead costs such as the salaries of the front office staff and generally all those costs which cannot be directly tied to the production of the sheet of plywood. An accurate estimate of the actual (or, full) cost must include both types of costs.

The cost accounting field also provides a pair of terms which separate production costs into one of two broad types, committed and flexible costs.⁶ A **committed cost** is a cost associated with resources expended by an organization to acquire productive capacity that must be put in place before any actual production can occur. Costs for personnel, communications (phones, computers, etc.), and amortized capital costs are all examples of committed costs. The key feature of committed costs is that they are unaffected by how much an organization actually uses the committed resources. As a result, the level of committed costs is related to the planned (or, historical) level of activities and is not affected by how much use is made of the committed resource during the period in question.

A **flexible cost** is one which arises from the use of flexible resources. Examples of flexible resources include labour that is acquired and paid for only in the amounts used, fuel used in vehicles to make deliveries of finished products, and the exact amount of electricity used in a production process. The quantity of flexible resources consumed is determined by the actual level of activities performed. The consumption of flexible corresponds with the actual demand for those resources. As a result, the organization pays for only the amount of flexible resources that it needs and uses.

The terms avoidable and unavoidable costs constitute another way of describing the costs which make up full costs. **Avoidable costs** are defined as costs that would 'go away' if an organization ceased to provide a given product or service. Conversely, **unavoidable costs** are those costs which would not 'go away'. For example, consider a manufacturing operation which produces three types of boots in the same factory. If the company chose to stop producing one of the three lines of boots the costs of raw materials used making those boots are avoidable. The costs associated with the maintaining the factory building itself, however, are more likely to be unavoidable since the factory must remain in reasonable repair in order that other two lines of boots can still be produced.

2.2.1 Average/per capita cost

One possible approach to the costing government services is to calculate some form of an average or per capita cost for the provision of government services. An example of the average cost approach would be to divide the sum of the operating and maintenance (O&M) budgets for the branches of the Department of Justice responsible for the administration of justice by the number of cases processed in a year. The value of new and incremental costs

⁶ The explanations of committed and flexible costs presented below draw heavily on Kaplan and Atkinson (1998).

would then be calculated as the number of cases originating as charges under a First Nation law multiplied by the average cost per case.

An approach similar to the average cost method would be to calculate a per capita measure of the value of government services. An example of the per capita approach would be to divide the sum of the O&M budgets for the branches of the Department of Justice responsible for the administration of justice by the proportion of the population estimated to be affected by the legal system. The value of new and incremental costs would then be calculated as the number of cases originating as charges under a First Nation law multiplied by the per capita cost per case.

Note that there are two significant flaws to both the average and per capita cost approaches. First, each approach ignores some cost categories (for example, capital costs relating to the current value of the Department of Justice building). As a result, only a portion of the actual, or full, costs required to deliver the government service are included in the calculation.

Second, and more importantly, both approaches are based on an overly simplistic assumption that there is a one to one relationship between inputs (the resources required to be in place before a charge can be processed) and outputs (the administration of justice). The validity of the one to one assumption is crucial to both approaches as it allows for a reverse calculation beginning with the level of outputs and working backwards to estimate the amount of inputs required to produce the given level of outputs.⁷ As a consequence, neither the average nor the per capita cost approaches provide for an accurate measure of committed costs.

2.2.2 Activity based costing (ABC)

Activity Based Costing (ABC) is the second approach to the costing of government services identified for further review. Defined as a systematic, cause and effect method of assigning the costs of activities to products and services, ABC is based on the principle that “products consume activities”. Instead of allocating costs to cost centres (such as human resources, finance, manufacturing, etc.) costs are allocated to activities (such as processing a customer order, resolving a customer complaint, etc.).

To phrase it another way, the basic theory of the ABC accounting technique is that organizational activities are responsible for all cost occurrences but not all organizational activities contribute to the production of every product or service. Consider the following manufacturing example:

A furniture manufacturer produces 20 desks and 20 chairs. Both items go through the same finishing department (activity). It takes one hour to finish a desk and two hours to finish a chair. Typical cost accounting would attribute the cost of the

⁷ In mathematical terms, the average cost and per capita approaches are both of the form of simple linear functions. For example, the average cost calculation may be represented as: $Q = O\&M/C$

where Q is the average cost per case,
C is the number of cases, and
O&M are is the relevant O&M costs

finishing on a per unit basis. The desks and chairs would bear an equal share of the cost (50/50) because an equal number of desks and chairs were produced. ABC attributes the finishing cost on a per hour basis - the amount the activity actually consumed. The desks and chairs would assume a fair share of the cost (1/3 to 2/3) because the chair uses twice the finishing hours as the desk.⁸

The activity based costing methodology is a *bona fide* full cost approach since it makes use of all the information contained in the financial accounting universe. Thus, all costs whether they are direct or indirect in nature, are included in the ABC cost calculations. The ABC methodology further distinguishes itself by recognizing that not all organizational activities contribute to the production of every product or service.

2.2.3 Alternative Service Delivery (ASD) Costing

A third potential approach to determining the value of a government service is found in Canada's Department of National Defence *Alternative Service Delivery Guidelines*. The guidelines are designed to allow Department of National Defence managers to make sound and justifiable business decisions when deciding on alternative delivery options. Potential delivery options range from the complete sale of assets, to the delivery of services by others (i.e., contracting out), to setting up new internal delivery models such as a Special Operating Agency.

Under the approach outlined in the ASD guidelines, baseline costing is carried out in the preparation of a business case analysis for costs for a targeted service.

The first step in the costing exercise is to describe the activity under review in terms of outputs and then detail all those factors that contribute to the output. Once the output has been defined, the inputs used in the provision of the output are costed in order to determine the cost of providing the targeted service according to the categories as follows:

Personnel Costs: both direct and indirect personnel costs, such as salary, wages, severance pay, and allowances such as uniform or environmental allowances

Operations and Maintenance (O&M) Costs: recurring non-personnel costs incurred in the provision of the targeted service including costs for:

- a) material and supplies (raw materials, parts, subassemblies, and components),
- b) repair and maintenance (costs for repairing and maintaining equipment in normal operating condition), and
- c) other costs (any other O&M expenditures that have not specifically been included above).

Facility Costs: costs for maintenance, rent, electricity, heating, and utilities related to buildings used in providing the targeted service.

Capital Costs: costs for equipment with a current net realizable value of more than \$5,000 and which have a life cycle of more than one year.

Overhead Costs: all indirect non-personnel support provided to a targeted service that has not been captured by the other costing categories.

⁸ This example is reproduced from the United States Military's *Standard Service Costing Handbook* www.ceac.army.mil/web/ssc_handbook_concepts.html

Non-DND Costs: costs incurred by other Departments in support of DND targeted services such as statutory personnel benefits including pension contributions, CPP, UI, etc., which are paid by Treasury Board on behalf of military and civilian employees.

Adjustments are then made to the resulting baseline cost estimate to include other relevant costs, such as one-time conversion costs and costs which will continue to be incurred by DND even if a service is contracted out (so-called non-avoidable costs). An important element in the baseline costing process is differentiating between avoidable and non-avoidable costs. Avoidable costs are the costs that will “go away” when the government stops providing the service; non-avoidable costs do not. Bids for the provision of the targeted service are then sought from interested parties outside of the DND. The outside bids are then compared to the avoidable costs.

The Alternative Service Delivery Guidelines contain a number points relevant to the project at hand:

- a) The DND Costing Handbook and the Treasury Board document *Stretching the Tax Dollar: Make or Buy*, both recommend avoidable costs as the basis to be used for decision making. The total of such costs is what the department could pay the private sector for the service.
- b) The guidelines say that generally all direct costs are avoidable, but determining what portion of overhead costs is avoidable is a matter of judgment. Several small contracts considered separately may have limited impact on overhead, however, aggregated they could reduce the overhead significantly.
- c) DND suggests doing baseline costing for the service. This is the full cost of providing the service, and includes all avoidable and non-avoidable costs at a specific point in time. The reasons for doing this are to understand the cost structure and scope of the service, to ensure the costs of all inputs are included, and to determine a benchmark for identifying potential savings. They see this baseline costing as a decision support document, and indicate that the level of detail required must be sufficient for making a reasonable decision about whether to contract out the service. It does not need to be as rigorous as the detail required for the bid evaluation decision, which is the decision about how much to pay for the contracted out decision.
- d) The DND guidelines identify that a frequent oversight is not identifying whether personnel involved with the activity are considered “core operational personnel”. Core operational personnel are positions that will remain regardless of whether the service continues to be provided by DND. The costs of such personnel should not be factored into the bid evaluation analysis. The Treasury Board document *Stretching the Tax Dollar: Make or Buy*, states that core policy personnel who would remain even when everything is contracted out should be excluded from the calculation of what the department would be able to pay for the contracted out calculation.
- e) The DND costing document addresses the issue of excess core operational personnel. It states that from a costing point of view, such excess should **not** be included in the evaluation of how much the department could pay for the contracted out service. They do note that the issue of excess personnel is

relevant from a policy point of view and should be included in the baseline costing exercise in a qualitative fashion rather than in a quantitative fashion.

- f) Both DND and the Treasury Board identify the cost of administering and monitoring the contract as a legitimate cost which must be included in the cost of contracting out. They also suggest that all direct costs of personnel, consultants and operations & maintenance or capital costs associated with the contracting out process need to be captured in any calculation of savings arising from contracting out.

2.3 Materiality thresholds for cost calculations

Materiality is a threshold amount. Amounts above materiality are considered worth the resources of calculating or analyzing them. Materiality thresholds cannot be chosen without looking at the context and implications of the choice of threshold amount. The size of the budget of the program may be relevant because there may be more room to absorb additional costs or reduced revenue. Amounts which reduce revenue for years into the future are more material than those that are a one-time event. The cost of doing the analysis and calculation may be more than the amount saved or reimbursed.

There is little in the way of direct guidance from either other Yukon departments or other jurisdictions for calculating materiality in the context of government program costing. For instance, the Yukon transfer payment from Canada is calculated to the exact dollar amount; the Yukon Government budget rounds its estimates to the nearest thousand dollars. There is some feeling in the Department of Finance that all costs should be calculated because the total may be significant.

If a significant number of charges will not be laid in the Yukon justice system under First Nations laws, the question arises as to whether it is worth committing resources and costs to monitor and invoice new and incremental costs. If there are few charges laid, then the cost of preparing to invoice the costs and the resources used to calculate the costs may outweigh what Canada will be required to pay. Section 13.6.7 provides that the costs of implementing the provisions of 13.6.4 incurred by the Yukon Government shall be paid by Canada. However, some of the costs will be difficult to identify and track, for instance staff time and effort.

The calculation of the cost savings that would have been realized under the proposed agreement with Teslin Tlingit Council, done in the report produced in March, 2000, *Cost Savings and Other Issues under First Nation Self-Government Agreements (SGAs)*, indicates that cost savings may be negligible. In addition, the cost of calculating the cost savings may be significant and greater than the cost savings themselves.

It is pre-mature at this time to set a dollar materiality threshold in advance of any actual negotiations with Canada regarding cost savings. Instead it is useful to outline a process that acknowledges both the lack of current experience with calculating cost savings and the fact that each program transferred needs to be analyzed in a way that ensures all the relevant costs are identified. Other goals for this process are simplicity and credibility. Materiality

considerations are discussed in the context of guidelines for the calculations of new and incremental costs, and cost savings in sections 3.2 and 4.2 respectively.

2.4 Recommended approach

Of the three costing approaches examined, it is the view of the project team that the methodologies outlined in Canada's Department of National Defence's Alternative Service Delivery (ASD) are the most appropriate in a government services costing context. The reasons for the recommendation are outlined below:

- The guidelines are supported by procedures recommended by the Treasury Board of Canada which is of course the same government with whom costing discussions are being undertaken.
- The guidelines require that baseline costing be done to identify the baseline cost of a service or program. Such an in-depth review will ensure that all the costs are identified and considered, and enhances the credibility of the costing.
- The same set of guidelines are appropriate for the calculation of new and incremental costs *and* cost savings. The specific application of the guidelines to each are addressed later in this report in section 3.4 (new and incremental costs) and in section 4.3 (cost savings).

3. New and Incremental Costs

3.1 Calculating new and incremental costs

Under section 13.6.0 of their self-government agreements, Yukon First Nations are required to enter into negotiations with the governments of Canada and the Yukon in order to create administration of justice agreements. Matters which may be considered for negotiation include:

- adjudication
- civil remedies
- punitive sanctions (fine, penalty, and imprisonment)
- prosecution
- corrections
- law enforcement
- the relation of a First Nation court to other courts
- any other matter related to aboriginal justice to which the parties agree

With regard to timing, a self-governing First Nation may not exercise its administration of justice power until five years after the effective date of its self-government agreement unless it first negotiates an administration of justice agreement. Thus, while a self-governing First Nation has the power to make laws immediately after the effective date of its self-government agreement has passed, it does not automatically have the corresponding authority to immediately administer those same laws.

In order to ensure that laws passed by a Yukon First Nation in the first five years are properly administered, the self-government agreements also contain provision for the use of the Yukon judicial system in that five year period. The provisions which apply in the five year period are known as the *interim provisions* and are described in section 13.6.4 of the self-government agreements. The provisions allow that:

- a First Nation shall have the power to establish penalties in the form of fines (up to \$5,000) and imprisonment (up to six months) for the violation of a First Nation law
- the Yukon court system (Justice of the Peace, Territorial and Supreme) can be used to adjudicate First Nation laws
- offences under a First Nation law are to be prosecuted according to the provisions of the Yukon's *Summary Convictions Act*
- if a term of imprisonment results from the violation of a First Nation law it is to be served in a facility provided for Yukon's *Corrections Act*

The self-government agreements also provide that, in exchange for providing administration of justice services, all new and incremental costs incurred by Yukon in implementing the interim provisions may be billed back to Canada. Such payments are to be made according to the terms of guidelines which are to be negotiated between the governments of the Yukon and Canada.

3.1.1 Definition of a new and incremental cost

The calculation of new and incremental costs requires, of course, a working definition of what constitutes a new and incremental cost eligible for recovery in respect of implementation of the interim provisions. Accordingly, new and incremental costs are defined as *those additional costs incurred by the Government of Yukon in the course of providing administration of justice services in respect of a charge made under a Yukon First Nation law.*

Pre-costs have been defined as costs incurred in the development and implementation of the guidelines for the negotiation of the interim guidelines. An example of such a cost would be the professional fees paid to consultants for the development of the new and incremental cost guidelines. Pre-costs have not been considered to be new and incremental costs for the purposes of this study because payment of those costs has been provided for under a separate implementation funding arrangement.

3.1.2 Timing of new and incremental cost calculations

3.1.2.1 Operational timing

Having now outlined the statutory basis for calculating new and incremental costs, as well as a working definition, the next matter to be considered is the appropriate point in time at which to calculate new and incremental costs. In order to assist in the identification of the appropriate point in time at which new and incremental costs should be calculated, a two stage trigger process, described below, was conceived.

Stage 1 of the trigger is activated when a First Nation enacts a law under authority of its self-government agreement. Note that the passage of a law by a First Nation does not automatically imply that new and incremental costs will be incurred by the Government of Yukon. On the other hand, note that costs incurred by Yukon in the course of becoming prepared to administer a First Nation law do constitute new and incremental costs.

The Yukon Department of Justice has received information from the seven self-governing First Nations that they have passed a total of 14 laws. This list does not include the income tax legislation which has been passed by five First Nations, suggesting that this list is incomplete in this and perhaps other areas.⁹

Stage 2 of the trigger process is activated when a charge is actually laid under a First Nation law. To date, the project team is not aware of any charges made under a First Nation law.

⁹ While a central registry of First Nation laws is required under section 21.2 of the Self-government Agreements (Public Register of Laws and Notification Provisions) it is not yet operational.

The table below presents, to the extent that information is known by the Yukon Department of Justice, the operational history of Yukon First Nation laws.

**Table 1: Yukon First Nation Laws - Operational History
DRAFT**

Stage 1 trigger: First Nation Law	Stage 2 trigger: Charge laid (#)
Champagne and Ashihik	
<i>Fish & Wildlife Act</i>	0
<i>Lands Act</i>	0
<i>Self-government Act</i>	0
<i>Traditional Activities Protection Act</i>	0
Nacho Nyak Dun	
<i>Land & Resources Act</i>	0
<i>Self-government Act</i>	0
Little Salmon Carmacks	
<i>Income Tax Act</i>	0
Selkirk	
---	0
Teslin	
<i>Administrative Act</i>	0
<i>Fish and Wildlife Act</i>	0
<i>Land and Resources Act</i>	0
Tr'ondëk Hwëch'in	
<i>Constitution</i>	0
Vuntut Gwitchin	
<i>Income Tax Act</i>	0
<i>Land and Resources Act</i>	0

Source: compiled using information supplied by the Government of Yukon, Department of Justice, Aboriginal Law Group, November 2000.

3.1.2.1 Statutory timing

As it is described in the self-government agreements, the concept of a new and incremental cost was intended to be temporary in nature. The interim provisions were to apply for only the first five years following a First Nation's effective date as it was expected that five years would be sufficient time for each First Nation to negotiate an administration of justice agreement pursuant to their section 13.3.17 powers. Contrary to the expectations of the negotiators, not one administration of justice agreement has yet been completed, notwithstanding that for the "first four" self-governing Yukon First Nations the initial five year interim period expired on February 14, 2000.

The interim provisions may be extended for an unbounded length of time through an exchange of letters at the ministerial level. Three of the "first four" have extended their interim provisions for at least one more year; presumably the fourth can do so retroactively. The table below presents the status of the interim provisions for each of the self-governing Yukon First Nations.

Table 2: Interim Provision Status

	Effective Date:	Intended interim provision expiry date:	Extended interim provision expiry date:
Champagne and Ashihik	February 14, 1995	February 14, 2000	February 14, 2002
Nacho Nyak Dun	February 14, 1995	February 14, 2000	--
Teslin Tlingit	February 14, 1995	February 14, 2000	February 14, 2001
Vuntut Gwitchin	February 14, 1995	February 14, 2000	February 14, 2002
Little Salmon Carmacks	October 1, 1997	October 1, 2002	not yet applicable
Selkirk First Nation	October 1, 1997	October 1, 2002	not yet applicable
Tr'ondek Hwech'in	September 15, 1998	September 15, 2003	not yet applicable

In conclusion, on one hand, the self-government agreements clearly provide a statutory basis for the calculation of new and incremental costs which suggests that guidelines and methodologies will be required to properly implement the self-government agreements. On the other hand, however, experience to date has shown that there is a significant likelihood that the Government of Yukon will never actually have to adjudicate a Yukon First Nation law. While it has not been possible to estimate the level of likelihood of not ever having to adjudicate a First Nation law it is nonetheless a factor which should be considered when deciding on the optimal approach for calculating new and incremental costs.

3.2 Guidelines for new and incremental costs calculations

The project team proposes that the following set of guidelines be adopted for the calculation of new and incremental costs:

- NI.1 When Yukon First Nation governments enact laws for which the Government of Yukon provides prosecution, adjudication and incarceration services, it is intended that there should not be either a cost or a windfall to the Government of Yukon.
- NI.2 The provisions in the self-government agreements under which new and incremental costs will be incurred by the Government of Yukon are in force for a limited time period.
- NI.3 The calculation of costs associated with charges under First Nation laws will consider full costs.
- NI.4 The cost calculations will be based on assumptions and numbers that are credible and defensible.
- NI.5 The procedure for determining the new and incremental costs to be invoiced by the Government of Yukon will balance simplicity and completeness.

3.3 Recommended approach for calculating new and incremental costs

1. *Base the calculation of new and incremental costs on full costs.*

Many of the costs within the administration of justice are costs that are not immediately affected by volume; for instance, if more charges are laid, many costs do not rise in the short-term. Instead, it may simply take longer for the charge to be addressed. For example, it may take longer for the information from the charge sheet to be entered in

the system, longer for the case to make it to court, longer for a space to be available in a program, and perhaps less time with a probation officer. Costs do not rise, but extend for a longer time into the future. Therefore, if no more charges were to be laid, the administration of justice system would need to continue long enough to deal with the additional charges, and this incurs full costs. Using full costs will avoid either undue windfalls or costs to the Government of Yukon.

2. *Use the Department of National Defence's Alternative Service Delivery guidelines as the basis for calculating new and incremental costs.*

The Alternative Service Delivery guidelines are credible because they have been developed in accordance with Treasury Board guidelines and have been used for alternative service delivery decisions made by the federal government. The intention of the guidelines is to produce credible and defensible numbers.

Under the Alternative Service Delivery guidelines, it is necessary to identify avoidable and non-avoidable costs, and to decide which costs are appropriately included in new and incremental costs. Full costs are used. The guidelines state that baseline costing needs to be done in order to scope out all the costs. The update on tracking incremental costs of justice services done in the 2000 report, *Cost Savings and Other Issues under First Nation Self-Government Agreements (SGAs)*, provides a baseline costing analysis.

3. *Base the invoiced new and incremental costs on (a) costs to identify charges under First Nations laws; (b) court time; and (c) probation services.*

The impetus to simplify the calculation of new and incremental costs is the result of the temporary nature of these costs as well as the experience that no charges have been laid under First Nations laws to date. Simplifying the calculation will have the added benefit of reducing training and monitoring costs, both of which are difficult to track.

From the 1999 report, *Cost of Justice Services Arising from First Nation Self-Government*, we can identify a few areas that could attract significant costs. One is the cost of preparing to identify charges under First Nation laws, because that may require changes to the data warehouse system. This is a one-time cost, and may be straightforward to track, especially if an outside contractor is used to do the work.

Court time is a significant cost; full costs are estimated at about \$950 per hour for the staff, support and facility costs. The court clerk could be asked to keep track of the hearing length of a relevant case. The rate used for court time may serve as a *proxy cost*, that is a cost that adequately serves to reflect a package of new and incremental costs associated with court registry services. Discussions with the Department of Justice's Legal Services Branch may give an idea of whether the time spent preparing for a court case is typically proportional to the hearing length, so that the court rate may be modified to also reflect prosecutor preparation time.

Probation services may also incur significant costs. In the 2000 report, *Cost Savings and Other Issues under First Nation Self-Government Agreements (SGAs)*, the manager of adult probation estimated the costs of typical tasks undertaken by Probation Services, based on full costs.

4. *Implement a system that will ensure that new and incremental costs are identified and invoiced to the Government of Canada on a timely basis.*

Section 3.1.2.1 of this report notes the need for a process that identifies the appropriate point at which to calculate new and incremental costs. Stage 1 requires a reliable way to ensure that the Department of Justice is notified of all laws passed by First Nation governments that are subject to Section 13.6.4 of their self-government agreements. Stage 2 requires that there be a way to identify when charges are laid under First Nation laws.

The process of calculating new and incremental costs will require that there is a staff person responsible for the calculations. This staff person must receive the information needed to do the calculations. Such information includes:

- a) notification of the passage of a law by a First Nation subject to section 13.6.4 of their SGA;
- b) results of an analysis on whether the law will attract new and incremental costs;
- c) costs of identifying charges under First Nation laws;
- d) the laying of charges under First Nation laws that attract new and incremental costs;
- e) the length of court hearings pertaining to such charges; and
- f) probation services associated with the charges.

Other staff will be involved in collecting and producing some of the information. For instance, Legal Services staff may be involved in analyzing First Nation laws to identify whether they attract new and incremental costs; the court clerk will need to record the length of the court hearing pertaining to relevant charges; probation services will need to collect information on the services associated with the charges. Health and Social Services staff will be needed to provide similar data in the case of charges laid against young offenders. Alterations are likely to be needed to enable charges under First Nation to be entered into the Department of Justice data warehouse system.

4. Cost savings

4.1 Calculating cost savings

In general terms, section 18 of the self-government agreements provide that savings which accrue to the Government of Yukon as a result of the transfer of responsibility for programs and services to Yukon First Nation governments are to be passed back to the Government of Canada. The agreements specify that the passing back of cost savings is to occur via ‘any fiscal transfer arrangement in effect at the time’.¹⁰ In other words, should it happen that the Yukon experiences cost savings as a result of the transfer of a program or service, then that amount is to be subtracted, on a one-for-one basis, from a future transfer payment made by Canada to the Yukon. Section 18 is not specific to the cost savings which might accrue to the Yukon as a result of the negotiation and implementation of an administration of justice agreement; it applies to the transfer of any program or service.

At first glance, the one-for-one swapping of savings for revenue appears to be quite a simple concept. Delving a little deeper into section 18, however, shows that many other factors are also relevant to the calculation. Each of the factors are examined below.

4.1.1 Subsection 18.1.1

Under the terms of subsection 18.1.1 the calculation of cost savings is to take into account **economy** and **efficiency**. By definition:

economy measures the relationship between resources acquired and their costs. Economy is achieved when the appropriate resources are acquired at the lowest possible cost.

efficiency reflects the relationship between inputs and outputs. The relationship is said to be efficient when a maximum amount of output is produced from a given input or a minimum amount of input yields a maximum amount of output.

If the implicit meaning of the phrase ‘take into account’ is not obvious enough, section 18 goes on to require that, in the case of efficiency, ‘losses in efficiency’ which result from the Yukon’s continuing responsibility for such programs and services must also be taken into account when estimating cost savings. Thus, the calculation of any cost savings must demonstrate that the delivery of continuing Yukon programs and services will not be adversely affected in terms of economy and, especially, efficiency.

4.1.2 Subsection 18.1.2

Under the terms of subsection 18.1.2, any amount identified as cost savings is reduced by losses in tax revenues resulting from the occupation of **tax room** by a First Nation

¹⁰ While the context of section 18 suggests that the fiscal transfer arrangement through which cost savings are to be passed back is the Formula Financing Agreement, the use of the more general term *fiscal transfer arrangement* conceivably would permit the passing back of cost savings through other fiscal transfers such as, for example, the Canada Health and Social Transfer.

government. The inclusion of this subsection acknowledges that self-governing Yukon First Nations have the authority to levy direct taxes. When Yukon First Nation governments assert their authority to levy direct taxes in tax fields already occupied by the Yukon, the possibility exists that the Yukon will experience revenue losses. Thus, subsection 18.1.2 serves to protect the Yukon from such a possibility.

Careful readers will note that cost savings are reduced by losses in tax revenues only if such losses are not **'backstopped'** by Canada. What this means is that the Yukon can only reduce a given cost saving amount if it is not otherwise compensated for the loss in revenue by an increase in the value of the grant payable under formula financing arrangements. In other words, the Yukon has agreed, *prima facie*, that it cares not if tax room sharing results in lost revenues so long as Canada makes up the difference through formula financing.

Currently, the only tax base that Yukon First Nations share with the Yukon (and also with Canada) is personal income tax. A series of 14 agreements between the governments of Canada, the Yukon and the seven self-governing First Nations which coordinate the sharing and collection of personal income tax between the three levels of government have been in effect since January 1, 1999. The section 18 provisions were not triggered by the occupation of personal income tax room by Yukon First Nations because the tax room was effectively being held vacant by the section 87 (*Indian Act*) tax exemption which, for the purposes of personal income tax, ceased to apply on December 31, 1998.¹¹

4.1.3 Subsections 18.1.3 and 18.1.4

In addition to being able to subtract the value of any lost tax revenues from identified cost savings, subsection 18.1.3 provides that Yukon may also subtract the monetary value of **technical assistance** and other **contributions in kind**. And finally, subsection 18.1.4 provides a residual window through which the value of **any other factors** mutually agreed upon may also be subtracted from identified cost savings.

4.1.4 Residual clause

While not referenced by a specific clause number, but clearly contained in section 18 of the self-government agreements is the following phrase:

but in all cases the Yukon shall continue to have the capacity to provide to Yukon residents the services for which it remains responsible, at a level or quality comparable to those prevailing prior to the assumption of responsibility by [a Yukon First Nation government] for the programs and services.

Thus, in the event that cost savings can be demonstrated by Canada, and that the provisions of subsections 18.1.1 to 18.1.4 do not succeed in preventing the calculation of a positive Yukon contribution value, the Yukon may avail itself of one more fallback provision in order to prevent a decline in revenues.

¹¹ In fact, Yukon gained a sliver of tax room under the tax sharing agreements with Yukon First Nations when it agreed to share only 95% of personal income tax revenues keeping the remaining 5% for itself.

4.1.5 Section 18 mathematics

For our more mathematically minded readers, the provisions of section 18 may be represented in the form of the simple linear equations presented below:

$$YC = YS - TL - VA - OF$$

where,

YC = Yukon contribution

YS = savings to Yukon resulting from program or service transfer to a First Nation

TL = losses in tax revenues (only if tax room remains part of Yukon revenue capacity)

VA = the monetary value of in kind assistance provided by Yukon

OF = any other mutually agreed upon factors

In its simplest form, the Canada-Yukon Formula Financing Agreement may be represented as:¹²

$$FT = EB - RC$$

where,

FT = value of the fiscal transfer from Canada to the Yukon

EB = expenditure base

RC = Yukon's revenue capacity

Thus, for positive values of the Yukon contribution (YC), the expenditure base (EB) is reduced one-for-one which results in a decrease in the value of the fiscal transfer (FT) from Canada to the Yukon.

4.1.6 Section 18 trigger

In summary, any cost savings which accrue to the Yukon as a result of the transfer of programs and services are subtracted from the expenditure base of a fiscal transfer. Such cost savings, however, are net of tax revenue losses and the value of technical assistance and other in kind contributions and must be calculated with due regard for economy and efficiency in the delivery of the same programs by Yukon. As a result, the transfer of a program or service will not necessarily result in cost savings to Yukon or a reduction in the value of fiscal transfers paid from Canada to the Yukon.

¹² See Courchene (1992).

4.2 Guidelines for cost savings calculations

- CS.1 When programs are transferred from the Government of Yukon to the First Nation, it is intended that there should not be either a cost or a windfall to the Government of Yukon.
- CS.2 The calculation of **costs** associated with the transfer of programs and services to First Nation governments will consider the full costs.
- CS.3 The calculation of **cost savings** associated with the transfer of programs and services to First Nation governments will consider only avoidable costs.
- CS.4 The cost savings calculations will be based on assumptions and numbers that are credible and defensible.
- CS.5 The cost savings calculations are to be based on the experience of a time period which is long enough to be representative of the average actual experience of the Yukon Government.
- CS.6 The procedures for determining the cost savings will balance simplicity and completeness.

4.3 Recommended approach for calculating cost savings

1. *Use the Alternative Service Delivery guidelines as the basis for calculating cost savings.*

The Alternative Service Delivery (ASD) guidelines are credible because they have been developed in accordance with Treasury Board of Canada guidelines and have been used for alternative service delivery decisions made by the federal government. The intention of the guidelines is to produce credible and defensible numbers.

The ASD guidelines require that baseline costing be done to identify the baseline cost of a service or program. This in-depth review ensures that full costs are identified and considered, and enhances the credibility of the costing. Baseline costing also supports the intention that when programs are transferred from the Government of Yukon to a First Nation, there should not be either a cost or a windfall to the Government of Yukon.

2. *Perform a business case analysis for a program or service the first time it is transferred to a First Nation government.*

Full costs need to be identified, and avoidable and non-avoidable costs broken out. This in-depth analysis will serve as credible template for any future transfers of the program. Cost experience over several years should be used in the baseline costing so that the experience is representative of the average actual experience of the Government of Yukon.

3. *Use the avoidable costs calculated for this initial transfer of a program to decide if the cost savings are enough to warrant a change to the fiscal transfer amount.*

Decisions regarding the level of cost savings will also create a basis for determining what amounts the governments of Canada and the Yukon consider to be 'material enough'.

- 4. Use the information to decide whether future transfers of the same program to other First Nations need to be separately analyzed or whether this initial calculation can serve all future transfers.*

The baseline costing assures completeness of the calculation. A decision made jointly by the Yukon and Canada to use the cost savings calculation of the initial transfer to serve all future transfers of the same service or program would simplify the process.

- 5. Identify the points in the process of transferring programs and services to First Nations when the avoidable costs increase significantly.*

While the transfer of a single program to a First Nation may result in small cost savings to the Yukon Government, it is possible that there will be points where staff positions may be eliminated or other significant cost savings occur. Identifying significant cost savings ensures that there is no windfall to the Yukon Government and that the calculations continue to be credible and complete.

- 6. Ensure that data needed to do credible baseline costing of programs and services transferred to First Nations is available.*

Under section 17 of their SGAs, First Nations have the authority to assume responsibility for the management, administration and delivery of any program or service within the jurisdiction of the First Nation. The calculation of the cost savings requires identifying the use by First Nation citizens of Yukon Government programs. Programs and services should therefore identify the citizenship of their clients. Changes may be needed to forms and the data warehouse system.

5. Financial and Systems Services Analysis Phase Two Workplan

The project teams' proposed workplan for Phase Two of the Financial and Systems Services Analysis project is outlined below.

5.1 New and incremental costs

- 5.1.1 Confirm that the court clerk will be able to keep track of the hearing length of a relevant case related to charges laid under First Nation laws.
- 5.1.2 Work with Legal Services Branch to calculate a court rate that reflects prosecutor preparation time.
- 5.1.3 Identify a reliable way to ensure that the Department of Justice is notified of all laws passed by First Nations that are subject to section 13.6.4 of their SGAs.
- 5.1.4 Work with the appropriate departmental branches to develop a way to identify when charges are laid in the Yukon justice system under First Nation laws.
- 5.1.5 Work with the appropriate departmental branches to develop ways to identify and collect the proposed proxy costs, namely, (a) the costs incurred in order to identify charges under First Nations laws which attract new and incremental costs; (b) court time for such charges; and (c) probation services resulting from such charges.
- 5.1.6 Identify the appropriate staff position to collect new and incremental cost information and to invoice Canada for them.
- 5.1.7 Work with various branch staff to inform them of what is required of them when they are collecting new and incremental costs;
- 5.1.8 Prepare instructions for the collection and invoicing of new and incremental costs.

5.2 Cost savings

- 5.2.1 Develop a business case analysis template which can be used to calculate cost savings at the time of a program or service transfer to a First Nation government.
- 5.2.2 Work with the various departmental branches to develop forms, data variables and systems to identify and track First Nation citizens and related costs through the system;
- 5.2.3 Review and update existing statistical forms of the various branches to ensure that they identify First Nation citizens and the services or programs they are using;
- 5.2.4 Compile existing statistical information that is available on First Nation citizens and which is relevant to this costing exercise;
- 5.2.5 Work with various branch staff to inform them of what is required of them when they are collecting information for cost savings;
- 5.2.6 Identify other Yukon Government programs and services where the methodologies developed in the course of the project could also be applied in fulfillment of similar SGA requirements.

Appendix A: Project Terms of Reference

1.0 Setting and methodology

- Identify and examine potential approaches to the costing of government services;

2.0 New incremental costs (section 13.6.4)

- Create guidelines and methodology and/or formula for the departments of Justice and Health and Social Services to determine the new and incremental costs relating to the interim provisions in section 13.6.4 of the First Nations Self-government agreements;

3.0 Cost savings (sections 18.1.1 and 18.1.2)

- Define and develop a set of principles and processes for determining the cost savings which can be used within the Departments' various branches;
- Propose a methodology and/or formula for calculating cost savings;
- Define categories that can be viewed as costs of calculating cost savings that may be subtracted from the amount YTG owes Canada (section 18.1.1 and 18.1.2 of SGAs);

4.0 Systems development

- Work with the various departmental branches to develop forms, data variables and systems to identify and track First Nation citizens and related costs through the system;
- Review and update existing statistical forms of the various branches to ensure that they identify First Nation citizens and what services or programs they are using;
- Compile existing statistical information that is available on First Nation citizens and which is relevant to this costing exercise;
- Work with various branch staff to inform them of what is required of them when they are collecting new and incremental costs or cost savings;
- Identify other YTG programs and services where the methodologies developed in the course of the project could also be applied in fulfillment of similar SGA requirements.

5.0 Project Administration

- Work in partnership with MacKay & Partners/Vector Research on the Financial Systems Analysis Services contract;
- Work closely with the Yukon Interdepartmental Subcommittee on Funding for the Administration of Justice. The subcommittee will provide the contractor with more detailed direction with respect to this project;
- Prepare an interim report by December 15, 2000.
- Prepare a final report which will identify the following: ongoing work to be completed, completed work, further recommendations, next steps and any other matters;
- Provide a monthly invoice to the Aboriginal Law Group - Department of Yukon Justice.

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