

Yukon Land Use Planning Funding Analysis

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Glossary

FTP	-	Flexible Transfer Payment
GAAP	-	Generally Accepted Accounting Principles
UFA	-	Umbrella Final Agreement
UFAIP	-	Umbrella Final Agreement Implementation Plan
YLUPC	-	Yukon Land Use Planning Council

I. Preface

Chapter 11 of the First Nation Final Agreements of self-governing Yukon First Nations describes the Yukon-wide land use planning framework envisioned for the post-settlement environment. Under the Chapter 11 provisions, land use plans are to be prepared by an estimated eight Regional Land Use Planning Commissions (“Commissions”) with the assistance of the Yukon Land Use Planning Council (“Council”). To date, two Regional Land Use Planning Commissions have been established, the North Yukon Planning Commission and the Teslin Regional Land Use Planning Commission.

Land management was included in the package of administrative responsibilities transferred by the Government of Canada to the Yukon Government on April 1, 2003. While land use planning is to be carried out at an arms-length basis by the Council and the Commissions, the Government of Yukon is nevertheless accountable for the completion of the regional land use plans as contemplated in Chapter 11 of the First Nation Final Agreements within the established funding parameters.

The Umbrella Final Agreement Implementation Plan specifies that \$7.4 million (in 1992 dollars) is to be budgeted for preparation of regional land use plans by Regional Land Use Planning Commissions over a ten year period. An additional \$447,519 (in 1992 dollars) per year is available to the Yukon Land Use Planning Council for fulfillment of its responsibilities. Based on a proxy allocation of one-eighth of the \$7.4 million total per planning area, early indications are that both the North Yukon and Teslin Commissions will not be able to complete their land use plans within their proxy budget allocations.

The Yukon Government desires that the Chapter 11 land use planning objectives are achieved to the fullest extent possible within the funding constraints detailed in Schedule I of the Umbrella Final Agreement Implementation Plan and confirmed in clause 7.22 of the Devolution Transfer Agreement. Accordingly, the purpose of this project is to outline how long-term fiscal guidance can be incorporated into existing arrangements to ensure that aggregate Council and Commission spending is effectively matched with the achievement of the Chapter 11 objectives.

2. Background

2.1 The Umbrella Final Agreement

The UFA is a tripartite agreement between the Council of Yukon Indians (on behalf of all 14 Yukon First Nations) and the governments of Canada and the Yukon. Not a treaty in itself, the UFA provides for the negotiation of two agreements by each First Nation: a

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First Nation Final Agreement (FNFA) and a Self-government Agreement (SGA). The resulting final agreements are 'constitutionally protected' under section 35 of the *Constitution Act, 1867*; the self-government agreements are not.

Since the signing of the UFA in May 1993, nine of fourteen Yukon First Nations have completed both self-government and final agreements and are now implementing the provisions of those agreements. The remaining five Yukon First Nations are at various stages of negotiations. Taken together, the UFA provisions represent a comprehensive land claim vision and encompass land, fiscal transfers and governance powers.

Two characteristics of the Yukon land claim approach are especially relevant to this project. The first is that implementation of the land claim is designed to proceed at a pace which allows First Nation governments and communities to build capacity. Access to governance powers is achieved through further negotiation and is not time bound. Negotiations are not required to be initiated before a given point in time at risk of no longer being able to enter into negotiations at a later date. In a similar manner, other processes provided for in the UFA which do not involve governance powers, such as land use planning, are not required to be initiated by specific dates.

The second characteristic relates to the separation between functional and fiduciary responsibilities in the implementation of specific UFA provisions. In many instances, the functional responsibility for undertaking activities described in the UFA has been delegated to a variety of community-based boards which serve as a bridge between self-governing Yukon First Nations and the broader Yukon community.¹ At the same time as functional responsibility has been delegated, fiduciary responsibility for ensuring that the overall objectives of the land claim remains with the federal and Yukon governments. The Yukon Land Use Planning Council is but one example which can be drawn from the UFA which demonstrates the separation between functional and fiduciary responsibilities.

2.2 Regional Land Use Planning Commissions

Under the terms of Chapter 11 of the UFA, each Regional Land Use Planning Commission is responsible for the preparation of a land use plan. Each Commission may

¹ Community-based boards serve as bridges in the sense that their membership structures require balanced representation. For example, UFA clause 11.4.2 requires that "Settlement Agreements shall provide for regionally based Regional Land Use Planning Commissions with one third representation by nominees of Yukon First Nations, one third representation by nominees of Government, and one third representation based on the demographic ratio of Yukon Indian People to the total population in a planning region."

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specify the precise terms of reference for their plan including detailed instructions regarding:²

- identification of regional land use planning issues;
- data collection and analyses;
- production of maps and other materials; and
- preparation of draft and final land use plan documents.

Chapter 11 also intends that each regional land use plan:³

- recommend measures to minimize actual and potential land use conflicts throughout the planning region;
- use the knowledge and traditional experience of Yukon Indian People, and the knowledge and experience of other residents of the planning region;
- promote the well-being of Yukon Indian People, other residents of the planning region, the communities, and the Yukon as a whole, while having regard to the interests of other Canadians;
- take into account that the management of land, water and resources (including fish, wildlife and their habitats) is to be integrated; and
- promote Sustainable Development.

In terms of process, the land use plan drafters are also required under the terms of Chapter 11 to be able to demonstrate that in the preparation of the plan:⁴

- the public had adequate opportunity for participation; and
- oral forms of communication and traditional land management practices of Yukon Indian People were taken into account.

With regard to the funding necessary to prepare the regional land use plans, the UFA itself does not identify any dollar amounts. Funding levels are instead laid out in Schedule I of the UFA Implementation Plan (UFAIP). Under the terms of the UFAIP, the total amount of funding agreed to be provided by the federal government for the preparation of all regional land use plans, in real dollar terms, is \$7,428,000. The UFAIP provides for the indexing of the total dollar amount to compensate for lost purchasing power due to price inflation. The inflation-adjusted value of total federal funding for the preparation of all regional land use plans was approximately \$8,539,674 for the 2003/04

² Indian Affairs and Northern Development, *Umbrella Final Agreement*, 1993, clause 11.4.5.

³ As outlined in clauses 11.4.5.4, 11.4.5.5, 11.4.5.7, 11.4.5.8 and 11.4.5.9. For the sake of completeness it should be noted that clause 11.4.5.10 allows that each Regional Land Use Planning Commission “may monitor the implementation of the approved regional land use plan, in order to monitor compliance with the plan and to assess the need for amendment of the plan.”

⁴ As outlined in UFA clauses 11.4.5.3 and 11.4.5.6.

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fiscal year. As Regional Land Use Planning Commissions have no statutory means of raising additional revenue, the total amount of funding available for land use plan preparation, beyond price inflation indexing, is fixed.

Under practice established by the federal government, the total amount of funding is to be divided up on the basis of two assumptions not explicitly stated in UFA Chapter 11:

- a total of eight Regional Land Use Planning Commissions will be struck and a total of eight regional land use plans prepared; and
- each land use plan will require three years to prepare.

In consequence, each land use plan is expected to cost slightly less than \$1.1 million to prepare over three years. Allocations to the two existing Regional Land Use Planning Commissions (North Yukon and Teslin) are currently made on an annual basis.⁵

Funding began to flow to the North Yukon Planning Commission in the 2000/01 fiscal year. The North Yukon Planning Commission has requested funding of \$250,712 for the 2004/05 dollars fiscal year. As required, the funding request was accompanied by an annual budget as well as a work plan for the year.

Funding began to flow to the Teslin Regional Land Use Planning Commission in the 2001/02 fiscal year. The Teslin Regional Land Use Planning Commission has requested funding of \$350,220 for the 2004/05 fiscal year. As required, the funding request was accompanied by an annual budget as well as a work plan for the year.

As noted in the *Five Year Review of the Umbrella Final Agreement Implementation Plan*, the mechanism initially used by the federal government to fund boards under its jurisdiction was the contribution agreement.⁶ In response to concerns that lapsed funding would be forever “lost” to all parties involved (including Indian and Northern Affairs Canada) an alternate funding mechanism, the flexible transfer payment (FTP), was introduced for the 2000/01 fiscal year. The FTP mechanism allows boards to “retain unexpended funds for use in future years provided that they meet their obligations under the FTP.”⁷ The Government of Yukon has continued to use the FTP mechanism for the funding the Yukon Land Use Planning Council and the Teslin Regional Land Use Planning

⁵ A calculation of cumulative spending by the Council and both Commissions was attempted on the basis of information supplied by Indian and Northern Affairs Canada as part of this project. The information reviewed was not sufficient, however, to allow the preparation of accurate aggregates.

⁶ Indian and Northern Affairs Canada, *Five-Year Review of the Umbrella Final Agreement Implementation Plan and Yukon First Nation Final Agreement Implementation Plans for the First Four Yukon First Nations*, 2000, page 47.

⁷ *Ibid.*

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Commission. Operations of the North Yukon Regional Land Use Planning Commission are currently being administered directly by Yukon Land Use Planning Council.

2.3 Yukon Land Use Planning Council

While responsibility for preparing the eight regional land use plans rests with the regional commissions, Chapter 11 is also the genesis for the Yukon Land Use Planning Council. The Council replaced the Land Use Planning Policy Advisory Committee established in 1987. Intended to fulfill a central agency function in the preparation of the regional land use plans, Chapter 11 tasks the Council with making recommendations to the governments of Canada and the Yukon as well as Yukon First Nations in respect of:⁸

- Yukon-wide land use planning policies, goals and priorities;
- the identification of planning regions and priorities for the preparation of regional land use plans;
- the general terms of reference for each Regional Land Use Planning Commission (including timeframes);
- planning region boundaries; and
- other agreed-upon matters.

Since April 1, 2003 the Yukon Land Use Planning Commission has received its funding from the Government of Yukon in the form of a flexible transfer payment. Schedule I of the UFAIP specifies that the Council is to receive \$447,519 per year, adjusted for price inflation. In the 2003/04 fiscal year, the Council's inflation-adjusted funding allocation was \$514,495. Under the terms of Schedule I the amount of funding received by the YLUPC is in no way linked to the amount of funding received by the Regional Land Use Planning Commissions. Funding began to flow to the Council in the 1995/96 fiscal year.

3. Issue Identification

Several issues germane to the Government of Yukon's ability to achieve, to the fullest extent possible, the objectives of Chapter 11 within given funding constraints were identified in the course of research for this project. Each is discussed in turn below.

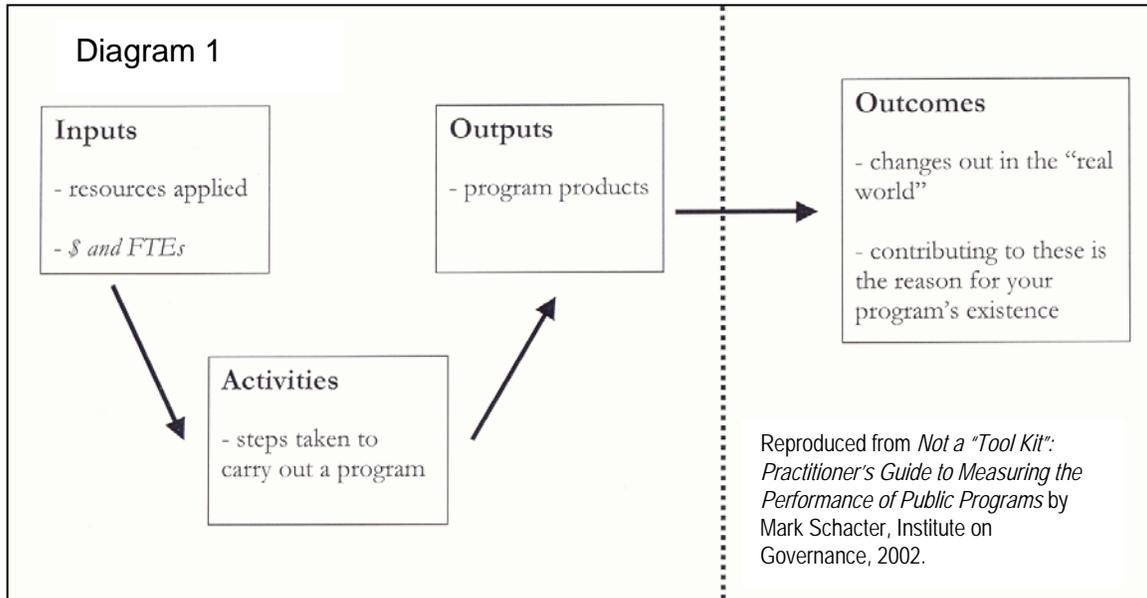
3.1 Activities, Outputs and Outcomes

Implicitly, the ultimate outcome of Chapter 11 appears to be that *land use plans which minimize actual and potential land use conflicts be prepared for all unalienated planning regions in the Yukon*. However, the activities, outputs and intermediate outcomes which together delineate the path from budget allocations to the achievement of Chapter 11's

⁸ See UFA clause 11.3.3.

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ultimate outcome are not clearly outlined within the UFA or the associated implementation plans. Diagram 1 illustrates the relationship between budget allocations (inputs), activities, outputs and outcomes.



The lack of clarity is, however, likely not a unique feature of Chapter 11 or the UFA in general. In reference to the Inuvialuit and Nunavut land claim agreements, Canada's Auditor General noted in the 2003 *Report of the Auditor General of Canada to the House of Commons* that:

"...as with many broad agreements arrived at through negotiations, the specific activities needed to meet some objectives are less clear. In those instances, progressing from meeting obligations and activities to achieving results requires the willingness of the parties."⁹

Strategic planning is often used as a roadmap to fill in the blanks between the vision or mission of an organization and the desired ultimate outcome. The YLUPC, presumably in response to the limited direction found in the documents intended to guide the implementation of the land use planning process, prepared a Strategic Plan for 2002. The plan essentially restates the YLUPC's Chapter 11 and UFAIP responsibilities and identifies associated activities. The outputs and intermediate outcomes which would clearly link its budget allocation with the achievement of the ultimate objective of Chapter 11, the completion of regional land use plans, are not presented. It is not

⁹ Office of the Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons, Chapter 8 Indian and Northern Affairs Canada – Transferring Federal Responsibilities to the North*, November 2003, page 8.

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known if either Commission currently operating has undertaken to prepare a strategic plan.

Work plans are prepared by both Commissions and the YLUPC on an annual basis as part of the budget submission process. Each of the three 2004/05 work plans reviewed do serve to delineate the part of the path to the left of the dotted line in Diagram 1 -- inputs, activities and (to a lesser extent) outputs. From a budgeting perspective, however, the single-year nature of the work plans reinforces the detachment between a) activities and outputs and b) outcomes in the budget process. While activities and outputs are completed within the one year timeframe of the workplan, the achievement of Chapter 11's ultimate outcome is a multi-year endeavour. The compromise between trying to include both single-year and multi-year objectives in the same document appears to be to limit coverage to single-year activities and outputs.

3.2 Council and Commission Budgets

While funding amounts for the YLUPC and the Commissions are separately specified in Schedule I of the UFAIP, Chapter 11 calls for an integrated budgeting process. After consultation with relevant First Nations, each Regional Land Use Planning Commission is required to prepare on an annual basis a "...budget for the preparation of the regional land use plan and for carrying out its functions under this chapter."¹⁰ Once prepared, the budgets are to be submitted to the Yukon Land Use Planning Council. Chapter 11 specifies that the Council is to review all Commission budgets. Unfortunately, Chapter 11 provides no clues about what criteria might be used by the Council in undertaking such a review. The implementation plans associated with the Final Agreements for both the Vuntut Gwitchin First Nation and the Teslin Tlingit Council do specify, however, that "the budget approval process will respect the discretion for the allocation of funds available to the Commissions pursuant to Part 2 Schedule I of the UFA Implementation Plan."¹¹

Thus, it would appear, on one hand, that Chapter 11 intends that the YLUPC is to guide the preparation of regional land use plans via the budget process. On the other hand, that intention looks to be restricted by final agreement implementation plan requirements that Commission funding is to be fully transferable between budget accounts.

¹⁰ UFA, clause 11.9.1.

¹¹ Indian and Northern Affairs Canada, *Vuntut Gwitchin First Nation Final Agreement Implementation Plan*, 1993, page 437 and Indian and Northern Affairs Canada, *Teslin Tlingit Council Final Agreement Implementation Plan*, 1993, page 375.

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The Yukon Land Use Planning Council is, in turn, required to “...propose a budget to Government for the development of regional land use plans in the Yukon and for its own administrative expenses.”¹² The Government of Yukon is to review the composite budget and “pay those expenses which it approves.”¹³ Similar to the Commission budgeting process, criteria against which the Council’s composite budget is to be evaluated are absent from Chapter 11. Similar to the requirements of the final agreement implementation plans, the UFAIP states that “the budget approval process will respect the Council’s discretion over the allocation of funds to be available to the Council under the [UFA Implementation] Plan.”¹⁴

Thus, in a case of administrative *déjà vu*, it would appear, on one hand, that Chapter 11 intends that the Government of Yukon is to guide the work of the YLUPC via the budget process. On the other hand, that intention looks to be restricted by the UFAIP requirement that Council funding is to be fully transferable between budget accounts.

3.3 Outcome-based Budgeting versus Line Item Budgeting

At a minimum, the purpose of any public sector budgeting exercise is to allocate resources in a systematic way. Budgeting systems can, however, be designed to accomplish additional multiple purposes, including:¹⁵

- financial control of inputs
- management of ongoing activities
- planning
- priority setting
- accountability

Just what can be accomplished with a given budgeting system depends entirely on how a budget is formulated. For example, line item budgeting, the result of budget reform in the early 20th century, focuses on the effective control of budget accounts. Line item ceilings are specified in the budget formulation process and financial controls are put place to ensure that budget allocations are not exceeded. Incrementality, whereby the next years’ budget reflects minor adjustments to the previous years’ line item amounts, is also a feature of line item budgeting. As noted by the World Bank, however:

“Budgets organized according to line items gave no information about why money

¹² UFA, clause 11.9.2.

¹³ UFA, clause 11.9.3.

¹⁴ Indian and Northern Affairs Canada, *Umbrella Final Agreement Implementation Plan*, 1993, page 96.

¹⁵ As described by Greg Hager, Alice Hobson and Ginny Wilson in *Performance-Based Budgeting: Concepts and Examples (Research Report No. 302)*, Legislative Research Commission, Program Review and Investigations Committee (Frankfort, Kentucky), 2001, page 3.

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was spent, or on the efficiency and effectiveness of programs. Further, these line-item systems were almost all associated with a short time horizon, leading to failure to take longer-term costs into account.”¹⁶

In response to the perceived shortcomings of the line item budgeting approach, a variety of alternate approaches to budgeting have developed for public sector use over the last 50 years. Outcome-based budgeting, also known as results-based budgeting, is the most recent of these having been developed in several countries (including Canada) in the 1990s. All of the alternate approaches to budgeting have a common feature -- they try to link costs with the results of government spending. That is, the alternative approaches attempt to accomplish, in addition to the financial control of inputs, the management of ongoing activities, planning, priority setting and accountability.

Chapter 11 requires that the Council and Commissions are each to draft a budget on an annual basis. The form of the budget is not specified. As evidenced by the most recent round of budgets submitted by the Council and Commissions the approach in use by all three agencies is line item budgeting. For example the 2004/05 “General Workplan and Budget” for the YLUPC notes (on page 8) that “the expense estimates are based on known costs from previous years. Many costs do not change significantly from year to year.”

The use of a line item budgeting approach limits the integration of the Council’s and Commission’s work plans and budgets. While the work plans refer to specific activities directly relevant to the preparation of land use plans (e.g., produce resource assessment report) the budgets are presented according to types of expenditure (e.g., professional services). Thus, an ongoing disconnect exists between work planning and budgeting. Note that the lack of integration is not a situation unique to the Chapter 11 land use planning agencies.

3.4 Spending Flexibility versus Results Accountability

Typically, the amount of flexibility associated with the spending of funds transferred from a government to a non-government organization is balanced against the extent to which the recipient is responsible for demonstrating that the desired results have been achieved. For example, funding transfers in the form of contribution agreements usually contain extensive detail about the activities and steps to be completed. Funds can be used to complete only the activities identified in the agreement within a specified time frame (a year or less). As a result, the spending flexibility associated with contribution agreement funding mechanisms is relatively low.

¹⁶ World Bank, *Public Expenditure Handbook*, 1998, page 12.

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On the other side of the equation, results accountability requirements associated with contribution agreements are usually minimal. A simple listing of activities undertaken and a financial accounting which demonstrates conformity with Generally Accepted Accounting Principles (GAAP) is often all that is required.

In contrast, funding arrangements which feature higher levels of spending flexibility are usually accompanied by requirements for financial accounting which demonstrate conformity with GAAP as well as an assessment of the extent to which the desired outcomes have been achieved. The achievement of outcomes is typically assessed through the use of quantitative and qualitative performance measures.

Diagram 2: Spending Flexibility *versus* Results Accountability

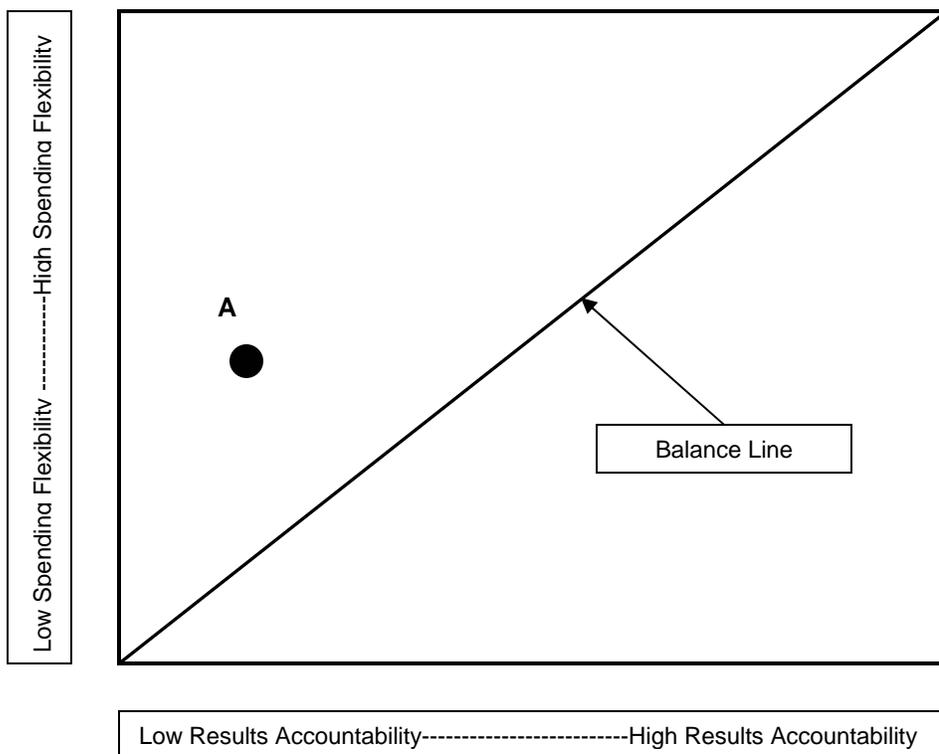


Diagram 2 demonstrates the spending flexibility/results accountability balance in graphical form. The 'balance line' which runs from the bottom left corner of the box to the upper right corner represents the range of possible funding arrangements for which spending flexibility is evenly balanced with results accountability requirements. As spending flexibility increases so does the strength of the requirement for the demonstration of results from government funding.

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Through use of a flexible transfer payment (FTP) funding instrument, the Yukon Land Use Planning Council and the two existing Regional Land Use Planning Commissions enjoy moderate spending flexibility. This is true for two reasons. First, within the constraints of their annual budget allocations, spending is fully fungible. While a Council or Commission budget may have identified a certain level of spending for a given purpose, spending may be redirected to another purpose later in the fiscal year in response to changing operational requirements. Second, money not spent in one fiscal year may be carried over for spending in the next fiscal year.

At the same time as the Council and Commissions enjoy moderate spending flexibility, the corresponding level of results accountability would appear to be relatively low since current reporting requirements appear to demand little more than a listing of activities completed during the year. This is perhaps not surprising given that, as noted earlier, the UFA, the First Nation Final Agreements and the accompanying implementation plans are all quite silent on the matter of outcome measurement. Thus, the funding arrangements currently in place are represented in Diagram 2 by Point A.

One possible explanation for arrival at Point A is the change in funding instruments introduced in the 2000/01 fiscal year when flexible transfer payments were substituted for contribution agreements. The quote below, from the 1996 *Report of the Royal Commission on Aboriginal Peoples*, is illustrative of this possibility:

“Flexible transfer payments (FTP) are special transfer payments that were introduced as an alternative to contribution agreements, providing for increased flexibility in the form of more autonomy for band governments to determine the means of delivering specified services. When any savings are realized through these alternative means, band governments are free to spend the surpluses generated in any manner they see fit. This limited autonomy allowed under FTP, however, is traded off against *more onerous reporting requirements* compared to contribution agreements.”¹⁷ [italics added]

At the same time as a more flexible funding instrument was introduced for the Council and Commissions, requirements for results reporting do not appear to have been modified in corresponding fashion.

¹⁷ Indian and Northern Affairs Canada, Report of the Royal Commission on Aboriginal Peoples Volume 2, Restructuring the Relationship, Chapter 3, Appendix 3A: Existing Financial Arrangements for Aboriginal Governments and Regional and Territorial Governments, 1996. page 2.

3.5 Economies of Scale versus Autonomy

A key feature of the Yukon land claim is that separate treaties, in the form of final and self-government agreements, do exist or are intended to exist for each of the Yukon's 14 First Nations. In other words, each self-governing Yukon First Nation is autonomous from all other governments. Prior to the achievement of self-government, Yukon First Nations were obligated to function under a "central agency" governance model where Indian and Northern Affairs served as the central agency.

As noted earlier, the Yukon Land Use Planning Council is intended to operate as a central agency and provide common services to all Regional Land Use Planning Commissions. Presumably, the rationale for such a structural arrangement relates to potential economies of scale. While all eight land use plans will vary in content according to their respective land bases, all plans will be prepared with similar technology and processes which should present cost-efficiency opportunities for the Council and Commissions alike.

In summary, the same land claim agreements which are the foundation for autonomous Yukon First Nation governments also contain elements of the previous governance model. The structural result is an inherent push-pull between First Nations wanting to exercise newly achieved autonomy and a central agency advocating for cost-efficiency in the preparation of land use plans. Such a circumstance is not insurmountable provided that mutually beneficial incentives can be put in place. Note, however, that the independence of funding between the YLUPC and the Commissions is not conducive to structuring a financial-type incentive.

3.6 Chapter 11 Land Use Planning: a Project or a Program?

It is not clear from Chapter 11 whether land use planning is intended to be a project with a finite life span or a program intended to operate in perpetuity. The fixed nature of budget allocations outlined in Schedule 1 of the UFAIP suggests that the plans are to be prepared but not revised. At the same time, certain parts of Chapter 11 suggest that the work of the Commissions is to carry on past the completion of the land use plans. For example, 11.4.5.10 provides that the Commissions "may monitor the implementation of the approved regional land use plan, in order to monitor compliance with the plan and to assess the need for amendment of the plan."¹⁸

¹⁸ UFA 11.4.5.10.

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The distinction between project and program is crucial for three reasons. First, the level of results accountability varies significantly between projects and programs. Projects often contribute to the achievement of broader outcomes but are generally not intended to lead to achievement of those objectives in isolation. As a result, the evaluation of project outcomes is not as rigorous as is the case for program outcomes.

Second, the lack of transparency around just how much funding might be available to complete a regional land use plan is likely a source of uncertainty for First Nations considering entering the land use planning process. With myriad competing priorities, demands and opportunities facing self-governing Yukon First Nations, the hint of funding insufficient to complete a land use plan would quite possibly cause hesitation to begin the process.

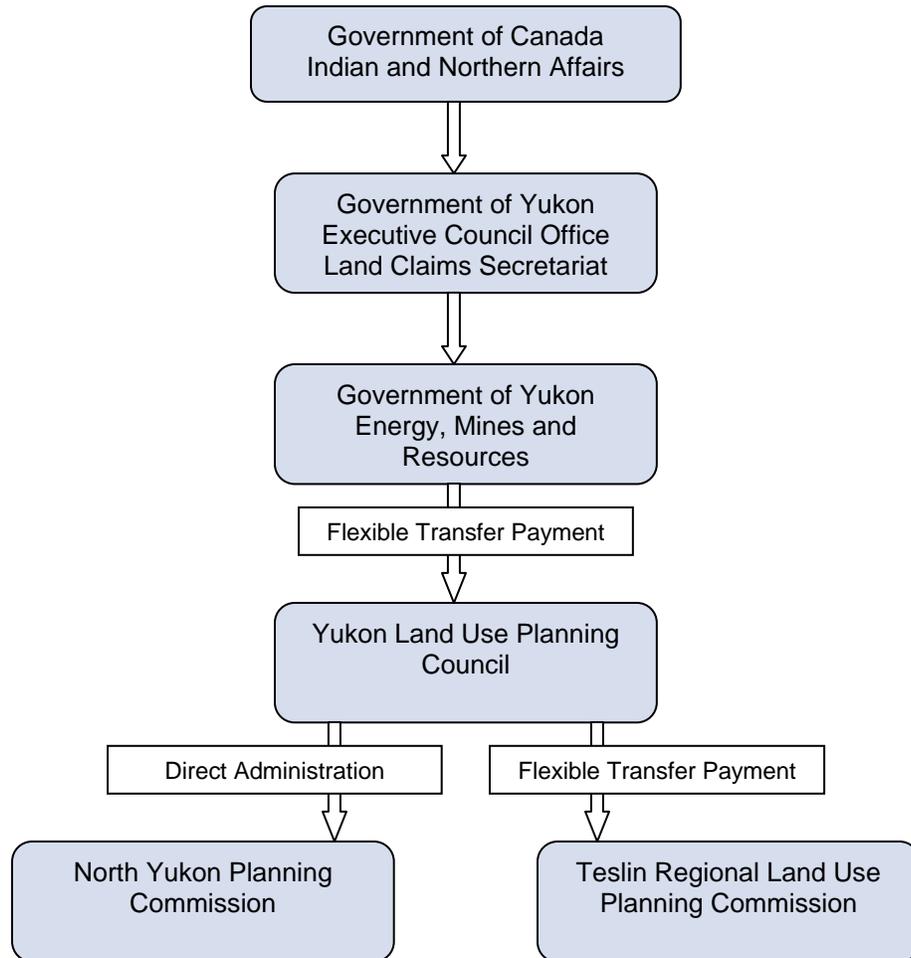
Third, from a taxpayer perspective, projects funded as if they are programs tend to exhibit inefficiency. In a general sense, an expectation that funding will continue in the next year, whether or not the project is completed, can create a disconnect between annual funding allocations and results achievement.

3.7 Land Use Planning Funding Flow

The land use planning funding flow as envisioned under Chapter 11 of the Umbrella Final Agreement is shown in Diagram 3. It is the Regional Land Use Planning Commissions who bear ultimate responsibility under Chapter 11 for the preparation of land use plans. Notwithstanding this circumstance, ultimate funding responsibility is very far removed from the Commissions. Land use planning funding passes through three agencies after being issued by the federal government before being received at the Commission level.

The length of the 'supply chain' corresponds to the number of budgeting processes that the funding must trickle down through to reach its destination. All budgeting processes have certain aspects in common, such as conformity with Generally Accepted Accounting Principles (GAAP), which serve to ensure that consistent financial control is exerted from one end of the chain to another. Other aspects of budgeting, including requirements for the setting of strategic priorities and efficient service delivery, can vary significantly from agency to agency. If those requirements are not mirrored between agencies, the possibility exists for top-down budget direction to get lost along the chain.

Diagram 3: Land Use Planning Funding Flow



4. Recommendations

Ensuring that the objectives of Chapter 11 are achieved to the fullest extent possible within the funding constraints detailed in Schedule 1 of the Umbrella Final Agreement Implementation Plan will be a challenging endeavour. On one hand, the separation of fiduciary and functional responsibilities between the Yukon Government and the arms-length Council and Commissions will likely facilitate the implementation of Chapter 11 at a pace which allows Yukon communities to build capacity. On the other hand, the form and structure of existing funding arrangements provides very limited opportunity for the Yukon Government to effect long-term fiscal guidance. Accordingly, the recommendations which follow, formulated on the basis of the issues identified in the preceding section, are intended to outline how long-term fiscal guidance can be incorporated into existing arrangements.

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1. Given the inadequacy of financial information supplied by Indian and Northern Affairs Canada for the purpose of determining historical funding appropriations, gather a complete set of audited financial statements for the Council as well as the Commissions. On the basis of the statements, prepare an accounting of historical spending for each agency.
2. Move the Flexible Transfer Payment funding arrangements closer to the balance line described in Diagram 2 by amending each FTP to require that the Council and Commission work plans:
 - a) demonstrate how activities completed in the year will contribute to the achievement of the ultimate outcome of Chapter 11 (i.e., the preparation of land use plans which minimize actual and potential land use conflicts for all unalienated planning regions in the Yukon);
 - b) demonstrate the extent to which the activities described in the work plan will contribute to the achievement of the ultimate objective in both quantitative and qualitative terms;
 - c) identify how much further work is needed to bring the land use plan to the point of completion as described by UFA clause 11.4.4. (i.e., preparation and recommendation of the land use plan to Government and affected First Nations); and
 - d) reconcile historical cumulative Council/Commission spending (as identified in Recommendation 1.) with items b) and c) above.
3. UFA clause 11.9.0 (Funding) requires simply that the Council and Commissions prepare “a budget”. The Yukon Government should exercise its implicit fiduciary authority granted by the Devolution Transfer Agreement and provide direction via the Financial Administration Manual that the Council and Commissions must prepare activity-based annual budgets which integrate workplan activities and products with expenditure plans. This will involve the allocation of dollar amounts contained in each budget category currently in use (i.e., administration, commission, planning, professional services and special projects) across each discrete grouping of activities and products identified in the work plan. The expected outcome of this annual exercise is to allow the strategic prioritization of workplan activities and products while continuing to respect the requirement for transferability between budget accounts.
4. Consider linking funding for the YLUPC and the Regional Land Use Planning Commissions so that subsequent-year Council funding is by some measure dependent on the achievement of the ultimate outcome by the Commissions. A financial link between the YLUPC and the Commissions would reinforce the fact

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that total funding for the completion of all eight regional land use plans is limited, a situation that will only become more apparent as additional Commissions are struck. Such a link could also serve to minimize duplication of efforts by all land use planning agencies. The link must be designed to balance Commission autonomy with economies of scale considerations.

5. Seek legal clarity on whether land use planning is intended to operate as a project with a finite life span or as a program with an indefinite life span. If it is determined that certain provisions of Chapter 11 remain indefinitely in force after the regional land use plans are completed, commence negotiations with the Government of Canada to secure additional implementation funding.
6. Upon preparation of the first regional land use plan to the point of completion as described by UFA clause 11.4.4, undertake a review of the plan preparation process which highlights areas where cost efficiencies could be achieved (both internally to a Commission and between the Council and the Commission). Incorporate the findings of the review into a) a presentation for current Council and Commission members, and b) orientation materials presented to new Council and Commission members.

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