



First Nations Financial Transparency

What is Bill C-27?

Bill C-27, the First Nations Financial Transparency Act was passed on November 27, 2012. The Bill requires every First Nation to produce the following:

- An audited annual consolidated financial statement;
- A separate annual schedule of remuneration (includes: salaries, wages, commissions, fees, bonuses, honoraria, dividends and expenses) paid by the First Nation and any entity controlled by the first Nation to its Chief and each of its councillors in their professional and personal capacities;
- An auditor's written report in respect to the consolidated financial statements;
- An auditor's report in respect to the schedule of remuneration.

For each of the four requirements, the Bill requires each First Nation to:

- Provide the document (upon request) to any of its Band members within a period of 120 days;
- Publish the document on the website of the First Nation (document must be retained on the website for a period of 10 years).

The Minister of Aboriginal Affairs is also required to publish the documents on the website of the Department of Aboriginal Affairs and Northern Development.

The failure of any First Nation to comply with the requirements contained in this Bill enables:

- Any member of the First Nation to apply for a court order to the Superior court;
- Any person, including the Minister, to apply for a court order to the Superior Court;
- The Minister to develop an appropriate action plan to remedy the breach;
- The Minister to withhold funds from the First Nation;
- The Minister to terminate any funding agreement(s) with the First Nation.

Issues/Concerns with Bill C-27

Bill C-27 is yet another piece of legislation that the Federal government pushed through the legislative process without any prior consultation and accommodation with First Nations.

It is important to note that the Assembly of First Nations has already passed a resolution that requires First Nations to make public financial information to their membership. Additionally, existing data derived from a number of studies, contradicts the government's allegations regarding lack of financial accountability:

- Among 557 audits conducted by INAC in 2002-2003, problems of any kind were only found in 16 cases (3%) (Assembly of First Nations, 2011);

- An investigation through the Parliamentary Standing Committee on Aboriginal Affairs and Resource Development in 2003 demonstrated that 96% of First Nations had no accountability issues (Assembly of First Nations,2011);

Instead of approaching First Nations as equal partners in Bill C-27, the government continues to impose legislation which fails to recognize their sovereignty and does little to promote the formation of an equitable relationship between Canada and First Nation people.

While transparency and accountability are necessary to ensure that all First Nation members are aware of the critical decisions being made by their leadership on their behalf, the members of the First Nation should bear the responsibility for determining the rules that apply to the governing bodies. Additionally, reporting requirements should be focused upon the community, as First Nation governments must be accountable, first and foremost, to the members of the First Nations that they represent. The proactive public disclosure provisions contained in this bill should, therefore, primarily be directed at the community members, rather than the public at large.

By requiring the Minister to publish financial information on the Aboriginal Affairs and Northern Development Canada website, this Bill goes far beyond the scope necessary to accomplish the aim of the bill (financial accountability and transparency) and increases the potential for misunderstanding of the numbers reported by the public at-large.

Recommendations:

- Develop a model of accountability that is informed by cultural practices and grounded within Traditional principles of accountability (such as: the Clan Model—a community model of accountability, the model should also reflect a commitment by the community to foster development that will benefit future generations (Seven Generations);
- At its core, a First Nation Financial Transparency Model should be developed with input from the community members, reflecting a leadership model which is community-driven, cognizant of the vested interest that the members have in ensuring the success of the community for future generations;
- It is important that a financial reporting requirements serve the purpose of informing and measuring accountability, rather than imposing a burden upon First Nation communities;
- Financial Transparency models should respect the sovereignty of First Nations, encouraging proactive disclosure of financial decisions/status to occur at the community level;