

Why do First Nations receive funding?

Under the Canadian Constitution, the federal government is responsible for “Indians and lands reserved for Indians”. Therefore, the federal government, at the very least, must ensure that members on-reserve receive programs and services from the government comparable to those received by other citizens of Canada including education, health, social services, housing and so forth. The funding level for these services is always subject to availability and the needs of the recipients. These benefits are not Aboriginal rights. Aboriginal rights are based on traditional use of lands.

Where does First Nation funding come from?

Aboriginal Affairs and Northern Development Canada’s (AANDC) “Indian Moneys program” is responsible for the administration of funding for the use and benefit of Indians and/or Bands within the policies of the *Indian Act*. There are two types of “Indian Moneys”: capital and revenue. Capital money is money from the sale of surrendered lands, or non-renewable resources of a band (such as oil and gas royalties, proceeds from sale of timber, oil, gas or gravel etc.). Revenue moneys include the sale of renewable resources, rights-of-way, fines and interest earned on capital and revenue money held in the Consolidated Revenue Fund (CRF). AANDC manages these funds “in trust” for the First Nation and dictates how funds are to be spent and accounted for. In recent years the *First Nations Oil and Gas Moneys Act* has given First Nations more control and autonomy over revenue earned on-reserve where this resource exists.

Some First Nations have been successful at leveraging their various rights to obtain other revenue sources known as Own Source Revenue (OSR). For instance, First Nations can use their existing reserve land to generate revenue through a lease, property taxes or as partners in development. First Nations can also leverage their Aboriginal right to consultation to negotiate a portion of revenues from projects that happen on their lands – these are called Economic Benefits Agreements or Impact Benefits Agreements.

Will we still be able to negotiate Economic Benefits Agreements with a treaty?

Yes. Under a treaty the federal and provincial governments are still required to consult First Nations on developments on their land and the First Nation can still negotiate these kinds of agreements.

How will First Nations funding work after treaty?

The federal and provincial governments agree that post-treaty they still have a role in supporting the First Nation government. Canada could not meet their obligations under the Canadian Constitution or a treaty if they ceased to provide funding all together. The federal government will still provide the majority of funding through what is called a Fiscal Financing Agreement. However, the role of the government changes and the First Nation government establishes financial transparency and accountability through their own constitution. Funding agreements will be renegotiated every five years, as opposed to every year under the *Indian Act*. A five year funding block allows a First Nation more flexibility to set their own priorities with the ability to carry funding over from one fiscal to another.

Will I still be a Status Indian after treaty?

Yes. However, the majority of the *Indian Act* will no longer apply to members or to the Indian Reserves after treaty. The federal government will continue to manage programs and services such as extended health and education benefits and so must still keep track of who is eligible as Status Indians. The Status Indian registration process and criteria will remain the same. The government also needs to track tax exemption eligibility during the transition period of phasing out.

Do I need to be a Status Indian to be registered under the treaty?

No. The First Nation will establish its own membership codes and determine who is eligible to register under the treaty to receive treaty benefits. Only those persons who are eligible and meet Indian Status criteria will receive programs and services, as they do now. The First Nation will have more financial flexibility and autonomy to determine what programs and services they offer in addition to those common services and who is eligible to receive them.

Didn't the Nisga'a lose their health and dental funding through a treaty?

No. The Nisga'a negotiated in their treaty to take over the management of their extended health and dental benefits and chose a different provider from the federal government. Under this plan, some expenses were now covered that were not previously while others that had been covered were no longer covered. This led to many Nisga'a members strongly criticizing the treaty. As a result of these administrative growing pains, negotiators for Canada will no longer consider such an approach and First Nations negotiating treaty will now have to continue to have federal management of extended health and dental.